

Buying and Selling Imitation Products in the Perspective of Fiqh Muamalah

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Abstract. This study aims to analyse the fiqh muamalah review of the practice of buying and selling imitation products, which is now rampant in contemporary economic transactions. The type of research used is library research with a normative approach and deductive analysis. The results of the study show that formally, the sale and purchase of imitation products has fulfilled the pillars and requirements of the contract, namely the existence of *ijab-kabul* and the element of willingness (*riḍā*) between the seller and the buyer. However, from a broader perspective of fiqh muamalah, this practice is categorised as a transaction that is haram and prohibited. This prohibition is based on the existence of an element of *ḍarar* (harm) to a third party, namely the original manufacturer whose intellectual property rights are violated without permission or tolerance. In addition, this practice contains elements of *tadlīs* (deception) and *garar* related to the uncertainty of the quality of products that resemble the original goods but do not have the same quality standards. This study concludes that even though the formal requirements are met, the violation of other people's property rights and the element of manipulation make this transaction incompatible with the principles of Islamic justice. The results of this study are expected to serve as a reference for academics, the government, and the public in understanding the limits of transaction honesty and the protection of the rights of original producers in order to create a muamalah ecosystem that is free from injustice.

Keywords: Buying and Selling, *Ḍarar*, Fiqh Muamalah, Imitation Products, Intellectual Property Rights

1 Introduction

The economic activities of buying and selling are permissible according to Islamic law, as they are a means of fulfilling human needs. According to the Qur'an, the practice of buying and selling is permitted, while usury is prohibited (Q.S. Al-Baqarah/2: 275).¹ This indicates that Islam places significant emphasis on the legality of muamalah transactions, encompassing the conditions, pillars, and objects involved in such transactions, with the objective of ensuring compliance with sharia provisions.²

Additionally, the Prophet Muhammad (peace be upon him) underscored the importance of honesty in transactions through his saying: "*The most optimal work is that which a person performs with their own hands and every clean sale.*"³ Based on this argument, scholars of fiqh concur that the law of buying and selling is fundamentally permissible (mubah) as long as it fulfills the pillars and conditions.⁴ The rules of fiqh also emphasize that the original ruling in muamalah is that it is permissible unless there is evidence to prohibit it.⁵

In the Syafi'i school of thought, the pillars of sale and purchase include the seller and buyer, ijab kabul, and the object of the contract in the form of goods or services that are legally traded. In order for a transaction to be considered valid, there are certain conditions that must be met. These include the stipulations that the parties involved in the contract must be of legal age and of sound mind. Additionally, the transaction must be carried out willingly, without coercion or undue influence. The goods in question must be useful and free from elements of usury, *garar*, *tadlis*, and *fāsid* contracts.⁶

However, in practice, not all commercial transactions adhere to the principles of sharia. One particular instance of this phenomenon is the commercialization of imitation goods, defined as counterfeit products that bear a striking resemblance to the original, with the deliberate intent of misleading consumers.⁷ This particular type of fraud falls under the umbrella of *tadlis*, a term that encompasses the concealment of defects or the dissemination of misleading information. In Islam, the practice of *tadlis* is considered a prohibited act due to its association with deception and the infliction of harm upon others.⁸

¹ Kementerian Agama Republik Indonesia, *Al-Qur'an Dan Terjemahan* (Jakarta: Kementerian Agama RI, 2019).

² Rachmat Syafei, *Fiqh Muamalah* (Bandung: CV Pustaka Setia, 2001).

³ Ahmad ibn Ālī Ibnū Hajar Al-Aṣqālānī, *Bulūḡ Al-Marām Min Adillāh Al-Ahkām* (Riyād: Dār al-Falaq, 2003).

⁴ Syafei, *Fiqh Muamalah*.

⁵ Ibnu Qayyim Al-Jauziyyah, *I'lam Al-Muwaqq'in 'an Rabb Al-Alamin* (Beirut: Darul Kutub al-Ilmiyyah, 1991).

⁶ Muhammad Rizqi Romadhon, *Jual Beli Online Menurut Madzhab Asy-Syafi'i* (Tasikmalaya: Pustaka Cipasung, 2015).

⁷ M. Abdul Mannan, *Teori Dan Praktek Ekonomi Islam* (Yogyakarta: Dana Bhakti Prima Yata, 1997).

⁸ Mannan.

Observations of the prevailing circumstances indicate the widespread dissemination of imitation products at prices significantly lower than those of the authentic items. Consumers frequently lack awareness regarding the authenticity of goods, thereby rendering them susceptible to exploitation by producers who possess a superior socio-economic bargaining position.⁹ While some consumers acquire counterfeit products due to their affordable prices, this practice must be assessed from an Islamic law perspective to circumvent components of *garar* and potential future losses.¹⁰

In light of this phenomenon, the author is interested in conducting an in-depth study of the legal framework governing the sale and purchase of imitation products from the perspective of muamalah fiqh. The objective of this study is to provide a clear legal understanding of these transactions for Muslims and business actors. The objective of this study is to conduct a thorough analysis of the practice of buying and selling imitation products from the perspective of muamalah fiqh. The aim is to provide a clear and comprehensive legal basis for Muslims in conducting sales transactions in accordance with sharia principles. The urgency of this study stems from the imperative to provide both academic and practical contributions, namely a comprehensive understanding of the validity and legal limitations of buying and selling imitation products. This is particularly salient in the context of the widespread circulation of such goods, which have the potential to engender elements of fraud (*tadlis*) and uncertainty (*garar*) that can adversely impact consumers. Moreover, this study aims to reinforce the values of justice, honesty, and blessings in muamalah activities in the contemporary era of trade.

2 Literature Review

Research on the validity of modern economic transactions within the framework of Fiqh Muamalah is undergoing dynamic development, particularly with regard to the objects of sale and purchase that intersect with intellectual property rights. Sholihah (2023) instigates this discourse by underscoring that the Islamic conception of buying and selling encompasses more than a mere exchange of property (*mal*); it is predicated on the fulfillment of the elements of benefit and procedures in accordance with Sharia through *ijab* and *kaibil*. In his findings, Sholihah (2023) utilizes the *qiyas* method to establish a correlation between the piracy of works and theft, thereby asserting that all forms of copyright exploitation without authorization, in both method and target, are deemed haram in accordance with the perspective of Law No. 28 of 2014 and Islamic law.¹¹ In alignment with this, Nanan (2023) extends the scope of the

⁹ Abdullah Siddik, *Inti Dasar Hukum Dagang Islam* (Jakarta: Balai Pustaka, 1993).

¹⁰ Hanifatul Chairiyah, "Tinjauan Hukum Islam Terhadap Jual Beli Produk Tiruan Di Pasar Somoroto Kecamatan Kauman Kabupaten Ponorogo" (Institut Agama Islam Negeri Ponorogo, 2018).

¹¹ Solihah Sari Rahayu, Novianti Syarifah, and Muhamad Dani Somantri, "Jual Beli Produk Imitasi Fashion Perspektif Undang-Undang Hak Cipta Nomor 28 Tahun 2014 Dan Hukum

study to field practices in Cipanas Market, where the proliferation of imitation goods is fueled by the high consumptive behavior of individuals seeking branded goods at reduced prices.¹² The common thread between these two studies and the current study lies in the application of the principles of Fikih Muamalah to scrutinize the legality of counterfeit goods. However, Nanan (2023) makes an important note that under Indonesian positive law, retailers and buyers often cannot be subject to legal sanctions due to the limited scope of Law No. 15 of 2001 on Trademarks.¹³

Similarly, Kun Salma Almira (2021) explains that the practice of buying and selling counterfeit goods in Yogyakarta does not meet the objective requirements of the agreement because counterfeit goods do not have a lawful cause and even contradict Articles 100-102 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The present study places greater emphasis on formal legal aspects and positive law, whereas the subsequent study will concentrate on a review of fiqh muamalah.¹⁴

A notable distinction emerges when examining transaction mechanisms on digital platforms, as analyzed by the author of Fitrah (2023) in relation to the mystery box phenomenon. While extant studies on imitation products have focused on violations of property rights and originality, the Fitrah (2023) study places greater emphasis on the aspects of information transparency and *garar* (uncertainty) risks in random packages. These differences delineate the state of the art of research, which demonstrates that the discourse on the sale and purchase of non-original products has evolved from a focus on “seller honesty” to a more intricate matter involving the rights of third parties (original producers) and legal protection for consumers and small traders.¹⁵ However, a conspicuous research gap persists; prior studies, such as Nanan (2023), have largely assumed that the willingness (*‘an tarāḍīn*) between sellers and buyers of imitation products is adequate to circumvent legal conflicts at the consumer level, without undertaking a comprehensive examination of the contractual framework, particularly concerning the rights to the brand associated with the goods.

The novelty of this research lies in the depth of analysis employed to determine the parameters of the validity of the sale and purchase of imitation products. This analysis involved the separation of the elements of fulfillment of the conditions of sale and purchase, as well as the physical elements, and the brand of goods as intellectual property rights. This study offers theoretical novelty in determining whether imitation products still meet the requirements as valuable assets that can be utilized, or whether the trademark infringement involved renders the transaction systematically invalid. Therefore, the present study contributes to the determination of the meeting point

Islam,” *Mutawasith: Jurnal Hukum Islam* 2, no. 2 (December 2019): 201–18, <https://doi.org/10.47971/mjhi.v2i2.155>.

¹² Nanan Annaajiyah, “Tinjauan Hukum Islam dan Hukum Positif Terhadap Praktik Jual Beli (Bai) Barang Imitasi (Studi Kasus di Pasar Induk Cipanas Kabupaten Cianjur),” *Muawadah : Jurnal Hukum Ekonomi Syariah* 2, no. 2 (2023): 31–38.

¹³ Ibid, 31–38.

¹⁴ Kun Salama Almira, “Praktek Jual Beli Barang Tiruan Perspektif Hukum Islam (Studi Kasus Di Yogyakarta)” (Universtas Islam Indonesia, 2021).

¹⁵ Fitrah Ramadhan, “Tinjauan Fikih Muamalah Terhadap Jual Beli Mystery Box Di Aplikasi Online Shop Shopee Di Kota Pekanbaru,” *Journal of Sharia and Law* 2, no. 3 (2023): 724–44.

between the protection of the original producer's property rights and the validity of community transactions at the micro level from the perspective of fiqh muamalah.

3 Research Method

This research is classified as library research, defined as a literature study that aims to examine theories and other references relevant to the values, norms, and culture that develop in the social situation being studied.¹⁶ The approach employed is a normative approach, which views Islamic teachings purely based on their original sources, namely the Qur'an and hadith, without speculative rational reasoning.¹⁷ This approach is necessary to trace and explore the legal basis for the sale and purchase of imitation products by tracing the arguments sourced from the Qur'an, hadith, and the opinions of fiqh scholars.

The data collection method employed in this study entailed a comprehensive literature review encompassing the Qur'an, Sunnah, scholarly books, academic papers, scientific journals, theses, and other pertinent supporting literature, with the objective of enriching and substantiating the primary data.¹⁸

The data processing and analysis methods utilized in this study are rooted in qualitative analysis, employing deductive reasoning to elucidate the findings. This approach entails the meticulous examination of data from diverse sources, including literature, references, notes, and extant research results, with the objective of attaining a profound comprehension of the subjects under study. Deductive analysis is a process that involves the generation of conclusions from general data descriptions, which are then refined into more specific and focused conclusions.¹⁹

4 Results and Discussion

4.1 General Concept of Buying and Selling

From a linguistic perspective, the term *al-bai'* signifies the act of transferring ownership of an item in exchange for a monetary compensation.²⁰ From a technical standpoint, the act of buying and selling can be defined as the exchange of valuable property, with the objective of mutually transferring ownership.²¹ A different conceptualiza-

¹⁶ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D* (Bandung: Alfabeta, 2018).

¹⁷ Abdul Kadir Muhammad, *Hukum Dan Penelitian Hukum* (Bandung: PT. Citra Aditya Bakti, 2004).

¹⁸ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D*.

¹⁹ Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: PT. Remaja Rosdakarya, 2002).

²⁰ Sa'dī Abū Jayb, *Al-Qāmūs Al-Fiqhī: Lughatan Wa-Iṣṭilāḥan* (Damaskus: Dār al-Fikr, 1988).

²¹ Muḥammad 'Amīm al-Iḥsān al-Mujaddidī Al-Barkatī, *Al-Ta'rifāt Al-Fiqhiyyah* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2003).

tion of the act of buying and selling involves the permanent transfer of ownership of an item or the right to benefit from it in exchange for property.²² Accordingly, from a linguistic perspective, *al-bai'* signifies the exchange of goods and prices. From a technical perspective, it signifies the existence of an agreement to transfer ownership of goods or permissible benefits in perpetuity in exchange for property.

In his book *al-Mugni*, Ibn Qudamah defines buying and selling as the exchange of goods for goods with the aim of giving ownership and receiving property rights. This phenomenon can be attributed to the underlying principle that governs the act of exchange, namely, the principle of reciprocity. In essence, this principle dictates that individuals engage in economic activities with the primary objective of providing goods and services to one another, motivated by the desire to reciprocate the benefits received. It is also plausible that this phenomenon occurs because both parties engage in the practice of shaking hands with each other. In this context, the act of buying and selling is defined by the fundamental principle of consensus, often embodied by a simple gesture of agreement, thereby marking the completion of the transaction.²³

The legal basis for the exchange of goods is *mubah*, or permissible. The practice of buying and selling, understood as a form of mutual assistance among human beings, finds its roots in Islamic teachings. This concept is extensively discussed in various sources, including the Qur'an, hadith, and *ijma'*, which provide a comprehensive framework for understanding this practice. The argument is derived from the Qur'anic verse Q.S. al-Baqarah/2: 275.

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

Translation:

In fact, Allah has made buying and selling lawful and forbidden usury.²⁴

The consensus among scholars is that the practice of buying and selling is permissible, given the fundamental human need for cooperation in order to meet one's needs. Nevertheless, the assistance or property of others that is required must be substituted with other suitable items. According to the verses of the Qur'an and hadith, the law of buying and selling is classified as *mubah*, or permissible. However, under certain circumstances, the principles of buying and selling can transition to *sunah*, *wajib*, *haram*, and *makruh*.²⁵

The conditions for a valid contract are divided into two categories: general and specific.

a. General Requirements

General requirements are the conditions that must be present in every type of sale and purchase for the transaction to be considered valid according to Islamic law. In

²² 'Abd al-Nāṣir ibn Khidr Mīlād, *Al-Buyū' Al-Muḥarramah Wa Al-Munhī 'Anhā* (al-Manṣūrah: Dār al-Hudā al-Nabawīyyah, 2005).

²³ Abū Muḥammad Abdullah bin Aḥmad Ibnu Qudāmah, "Al-Mugnī," in 6, I (Mesir: Maktabah al-Qāhirah, 1979).

²⁴ Kementrian Agama Republik Indonesia, *Al-Qur'an Dan Terjemahan*.

²⁵ Wabbah bin Muṣṭafā al-Zuhaylī, *Al-Fiqh Al-Islāmī Wa Adillatuhu*, IV (Dimasyq: Dār al-Fikr, n.d.).

general, the contract of sale must be free from the following six types of defects (*ʿaib*): ambiguity, coercion, restriction with time, fraud, deficiency, and invalidating conditions.

b. Special Conditions

This sale and purchase must meet the following requirements:

- 1) The goods being traded must be tangible. In the case of the sale and purchase of tangible items, this requirement is necessary because, upon release, the goods are susceptible to damage or loss.
- 2) It is imperative to ascertain the initial price, particularly in the context of amanah transactions, such as sales and purchases.
- 3) The transfer of the item must be completed prior to separation. This requirement applies to sales in which the item is present at the location.
- 4) It is imperative that the conditions for acceptance be met.
- 5) Equilibrium must be maintained in regard to weighing scales, that is to say, in instances where measurements or scales are employed in sales and purchases.
- 6) In the context of commercial transactions, the responsibility for goods that have been sold lies with the seller. Therefore, it is not permissible to sell goods that are still in the seller's possession.
- 7) The *lāzim* (mandatory) condition is that there is only one condition, namely that the sale and purchase agreement must be free from khiyar (choice).²⁶

There are two types of buying and selling:

a. The Sale and Purchase Are Valid

A valid sale and purchase is defined as a transaction executed in accordance with Islamic law, free from any deviation from established principles, and recognized as a fundamental component of Islamic commercial practices. The law of sale and purchase exerts significant influence over commercial transactions. When a seller transfers ownership of goods to a buyer in exchange for a price, the seller retains ownership of the goods at the time of *ijab-kabul*.²⁷

b. Invalid Sale and Purchase

A void sale and purchase constitutes a transaction in which one of the fundamental elements of sale and purchase is not fulfilled. This sale and purchase transaction is not recognized by religion, and if such a transaction occurs, ownership rights do not arise.²⁸

The following is a list of the types of void sales and purchases:

a. Selling Something that does Not Exist

The scholars of fiqh agree that a sale involving something that does not exist or is unlikely to exist is invalid. To illustrate, consider the sale of a calf prior to its birth, or the sale of a plant that has not yet reached full maturity. The Hadith of the Prophet (peace be upon him) conveys the following message:

²⁶ Syafei, *Fiqh Muamalah*.

²⁷ Wabbah al-Zuhaili, *Al-Fiqhiyah Al-Islam Wa Adillatiha*, Cet. II (Dimasq: Dar al-Fikri, 1985).

²⁸ Erwandi Tarmizi, *Harta Haram Muamalat Kontenporer* (Bogor: P.T. Berkah Mulia Insani, 2012).

لَا تَبِيعُوا الثَّمَرَ حَتَّى يَبْدُوَ صَاحِبَهَا²⁹

Meaning:

Do not sell fruit until it is ripe. (HR. Ibnu Majah)

It has been established that the Prophet Muhammad (peace be upon him) prohibited the sale and purchase of items that are not clearly visible. Such transactions have the potential to be detrimental and may lead to manipulation.

b. Buying and Selling Something That Cannot Be Delivered

The scholars concur that it is invalid to sell an item for another item that cannot be delivered, even if the item belongs to the seller. To illustrate, consider the scenario in which an individual sells a bird that has flown away from its owner. This is due to the concern that the transaction may be invalid, as the offer (ijab) and acceptance (kabal) have been executed, yet the bird remains in the sky and is unable to return to its owner. Maliki's perspective asserts the invalidity of commercial transactions involving stray cattle, wild cattle, or birds in flight. This position is shared by Syafi'i and Hanbali, who similarly prohibit transactions that cannot be delivered. As with fish in water, stray camels, or camels with eye infections.³⁰

c. The Practice of Buying and Selling Non-Existent Items

In Islam, the sale and purchase of items that are not tangible and cannot be visually verified is strictly forbidden. This prohibition stems from the uncertainty or ambiguity surrounding these goods, which may give rise to concerns regarding their provenance, i.e., whether they were stolen or entrusted to another party. This potential ambiguity could potentially result in financial losses for one of the parties involved in the transaction. In this regard, Ibn Rusyd delineates that the items subject to trade may be classified into two distinct categories: Initially, the focus is on tangible items that are perceptible to the senses, thereby ensuring a universal consensus. Secondly, the concept of "gaib" is introduced, referring to items that are either absent or not perceptible, and are not present at the location where the contract is executed. This concept has given rise to divergent scholarly perspectives, leading to a range of opinions regarding its implications. According to Imam Malik, it is permissible to engage in commercial transactions involving goods that are not present (gaib) or cannot be seen and are not at the place where the contract is made. This opinion is also endorsed by Abu Hanifa. However, according to Malik, it is obligatory to specify the characteristics of the goods. Conversely, Abu Hanifa permits the omission of these characteristics.³¹

The perspectives of these two scholars (Imam Malik and Abu Hanifah) diverge from that of Imam al-Syafi'i, who does not sanction the sale and purchase of goods that are not present (gaib) or cannot be seen and are not at the location where the contract is executed.

²⁹ Abū Abdillāh Muḥammad bin Yazīd, *Sunan Ibnu Mājah* (Irak: Dār Ihyā' al-Kitāb al-Arabiyyah, 1980).

³⁰ Muḥammad ibn Aḥmad ibn Muḥammad ibn Rusyd Al-Qurṭubī, *Bidāyat al-Mujtahid Wa Nihāyat al-Muqtaṣid*, II (Beirut: Dār al-Kutub al-'Ilmiyyah, 1997).

³¹ Al-Qurṭubī.

Islamic jurisprudence does not proscribe trade except in cases involving injustice, fraud, exploitation, or the promotion of prohibited items. The Islamic religion prohibits the trade of *khamr*, cannabis, pork, statues, and similar items whose consumption, distribution, or use is prohibited. Any income obtained through such practices is considered haram and impure.³²

The following transactions are prohibited in Islam:

- a. Engaging in transactions with individuals who are currently engaged in the negotiation process for the sale of another person's asset, or acquiring goods or services that are still subject to negotiation by another party, is considered illicit. For instance, the following assertion has been made: "Reject his offer, and I will purchase it at a higher price." This practice is strictly forbidden due to its potential to cause harm to others.
- b. The buyer's decision to purchase an item is not driven by genuine interest in the object itself; rather, it is motivated by a strategic intent to preclude other potential buyers from acquiring it. This approach can be characterized as a form of financial leverage, where the primary objective is not the acquisition of the item per se, but rather the prevention of its transfer to another party.
- c. The act of acquiring an item when its cost is increasing and its popularity is at a high point, subsequently storing it, and subsequently selling it at a later date when its cost has increased exponentially.³³
- d. The item in question is initially sold for its practical application; however, it subsequently serves a functional purpose as a tool.
- e. For the purpose of engaging in sinful activities, as determined by the buyer. For instance, one might engage in the sale of grapes to an individual who typically engages in the production of wine.
- f. Alternatively, one might engage in the purchase of goods that have already been purchased by another party who is still within the *khiyar* period.³⁴
- g. *Arbun* trading is defined as the practice of acquiring goods through the payment of a specified sum of money in advance, which functions as a down payment. In the event that the purchase is not completed, the financial investment is forfeited, and the funds are subsequently donated to the seller.³⁵
- h. The practice of sale and purchase by means of *najasy* (false propaganda) involves the strategic manipulation of prices, not based on genuine demand, but rather to deceive potential buyers into making purchases at a particular price.³⁶
- i. The sale of any item that is deemed unlawful constitutes an unlawful act itself. For instance, the acquisition and disposition of swine, alcoholic beverages, sustenance, and beverages that are typically proscribed, as well as effigies, crucifixes, idols, and similar items, are considered illicit. Permitting the

³² Yūsuf Al-Qarḍawī, *Al-Halāl Wa Al-Harām Fī Al-Islam*, XX (Kairo: Maktabah Wahbah, 1997).

³³ Ahmad Soleh, *Usaha Keluarga* (Semarang, 1985).

³⁴ Sulaiman Rasyid, *Fiqh Islam* (Bandung: Sinar Baru Algensindo, 2005).

³⁵ Hasbi Ash Shiiddiqī, *Hukum-Hukum Fiqh Islam (Tinjauan Antar Madzab)* (Semarang: PT Pustaka Rizki Putra, 2001).

³⁶ Moch. Anwar, *Terjemah Fathul Mu'in* (Bandung: Sinar Baru Algensindo, 1994).

sale and trade of these items is tantamount to providing support for such practices, fostering their proliferation, and thereby creating a more conducive environment for their perpetuation.

- j. The practice of intercepting or blocking individuals from outside the city who are en route to the market with goods to sell, and subsequently purchasing these goods prior to the market's opening, is a strategy employed to circumvent the learning process that occurs as market prices are established. This is not permissible because it has the potential to cause harm to the villagers who come and, as a result, undermine the marketing movement, as the goods fail to reach the market.³⁷

From a legal vantage point, sales and purchases are classified into two broad categories:

- a. Merchandise that is both tangible and observable. There is a consensus regarding the permissibility of these items.
- b. The absence of goods (gaib) or their invisibility, resulting in their non-existence at the location where the contract is executed, has given rise to divergent scholarly opinions. According to Imam Malik, the purchase and sale of goods that are absent (gaib) or not present at the time of the contract's execution is permissible. This perspective aligns with that of Abu Hanifah. However, according to Malik, the characteristics of the goods must be specified, whereas Abu Hanifah holds the opinion that this is permissible.³⁸

From the perspective of the entity engaging in the exchange of goods and services, transactions can be categorized into two distinct forms:

- a. Visible sales are defined as transactions in which the object of sale is present in front of both the buyer and the seller at the time the agreement is made.
- b. In the context of an agreement for the sale and purchase of goods, the characteristics of the goods in question are specified at the time the agreement is concluded.³⁹

In terms of validity, sales and purchases are divided into two categories:

- a. Valid sales and purchases are defined as sales and purchases that have fulfilled the stipulated conditions or requirements, and the goods are not owned by another person. Consequently, such sales and purchases are considered valid and binding on both parties.
- b. Invalid transactions are defined as those transactions in which one or more of the stipulated conditions are not satisfied.⁴⁰

³⁷ Anwar.

³⁸ Al-Qurtubī, *Bidāyatu Al-Mujtahid Wa Nihāyatu Al-Muqtaṣid*.

³⁹ A.Khumedi Ja'far, *Berbagai Macam Transaksi Dalam Fikih Muamalah* (Bogor: Ghalia Indonesia, 2011).

⁴⁰ M. Ali Hasan, *Berbagai Macam Transaksi Dalam Islam* (Jakarta: Raja Grafindo Persana, 2004).

4.2 Concept of Imitation Product Sales

a. General Overview of Imitation Products

A product is defined as an object or entity that can be touched or not, including but not limited to packaging, color, price, and service received by buyers to satisfy their desires. A product is defined as any entity that can be offered, requested, sought, purchased, used, or consumed to fulfill needs or desires. Therefore, the definition of a product must extend beyond its physical form to encompass all concomitant variables, such as packaging, branding, and labels, that are offered to the market and have the capacity to satisfy consumer needs and desires.⁴¹ Imitation products are defined as counterfeit or non-genuine products.⁴²

A particularly salient phenomenon is the sale of imitation products, which have emerged as a novel alternative for consumers in meeting their daily needs. Imitation products are goods that are illegally sold using well-known designs or brand names. The products offered at this establishment feature designs that are analogous to those of the original products, including those from the brands and. However, these products are offered at a more economical price point compared to their original counterparts. It has been documented that items most frequently subject to counterfeiting are typically those bearing well-known brands, including but not limited to Louis Vuitton, Supreme, Nike, and Adidas footwear.⁴³

The prevailing perspective that imitation products were exclusively characterized by their low prices, while disregarding the quality of the products offered, has undergone a significant transformation. Contemporary evidence suggests that this perception is no longer entirely accurate. Contrary to popular belief, not all imitation goods are of substandard quality. Indeed, a considerable number of imitation goods have begun to match the quality of the goods they emulate. The prevailing sentiment among consumers indicates a lack of concern for imitation goods that bear a resemblance to branded goods. This is primarily due to the perception that imitation goods are comparable to their original counterparts, such as Nike shoes. Despite the presence of certain purveyors of counterfeit goods who assert that their products are comparable in quality to authentic items, such as Nike-branded shoes from “KW Super,” which exhibit nearly identical quality to the original products, it is imperative to critically evaluate the authenticity and quality of these products.⁴⁴

The aforementioned assertion is further substantiated when considering the capacity of imitation products to proffer goods that are nearly equivalent in quality to the original products, and often at a fraction of the price. This phenomenon can be at-

⁴¹ Swastha, *Manajemen Pemasaran Analisa Perilaku Konsumen* (Yogyakarta: HPFE, 1997).

⁴² Depertemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*, IV (Jakarta: PT Gramedia Pustaka Utama, 2014).

⁴³ Kompasiana, “Produk Brand Terkenal Lain Secara Illegal Produk Yang Ditawarkan Memiliki Desain Lebih Rendah Dari Harga Aslinya,” Kompasiana, n.d.

⁴⁴ Kompasiana, “Produk Brand Terkenal Lain Secara Illegal Produk Yang Ditawarkan Memiliki Desain Lebih Rendah Dari Harga Aslinya.”

tributed to the ability of imitation product manufacturers to reduce numerous expenses that would otherwise be shouldered by original product manufacturers.⁴⁵

This phenomenon occurs because consumers tend to exhibit brand loyalty, preferring familiar brands. Consequently, when counterfeiting occurs, consumers are susceptible to financial losses due to their mistaken consumption of goods with sub-standard quality, which deviates from their expectations.⁴⁶

With regard to transactions that are prohibited by Islamic law due to external causes, these include transactions involving manipulation, falsification, or deception, as well as transactions involving harm (*darar*), i.e., causing harm to oneself or others.⁴⁷ In the context of trade, Islamic law stipulates that sellers and buyers must act with integrity and refrain from deceit. It is imperative that these principles be founded on the tenet of abstaining from inflicting harm or deceit upon others. Islam's scriptural and historical discourse unequivocally denounces deceitful practices in commercial transactions.

b. Characteristics of Buying and Selling Imitation Products

The presence of counterfeit goods is indicated by several characteristics, including but not limited to: stitching, patterns on leather materials, zipper quality, logos, buttons, labels, barcode and serial number checks, packaging quality, inner lining fabric, and price. With regard to the stitching process, the production of branded bags, wallets, clothing, and other accessories is meticulous, with even the smallest stitches receiving the same level of attention. The stitching of authentic products is meticulously executed with a double-stitching technique, ensuring durability and resilience. Furthermore, authentic leather products exhibit distinctive characteristics such as irregular pore patterns, soft texture, and a unique animal skin aroma. The zippers on authentic branded items are composed of high-quality metal and bear the same logo as the brand name.

Upon examination of the logo, the authentic logo is found to be flush with the surface of the bag or wallet, while the counterfeit one will protrude from the surface of the item because it is only affixed in the conventional manner. The fasteners utilized in authentic, branded attire are distinctive in nature, bearing labels that denote the brand name. Furthermore, an examination of the inner side of the garment reveals the presence of a hidden label. This label typically contains buttons and other components intended for replacement. It is imperative to ensure that the labeling on the product is accurate and precise. This includes the wording on the label, tag, and guarantee card. The labeling of authentic products indicates the country of manufacture, as opposed to the city, for example, “made in Italy” rather than “made in Milan.”⁴⁸

Counterfeit goods, otherwise known as KW goods, are goods that are produced as replicas or imitations of branded goods. Counterfeit goods are more commonly referred to as KW goods. The term KW is derived from “quality,” which is associated

⁴⁵ Kompasiana, “Produk Brand Terkenal Lain Secara Illegal Produk Yang Ditawarkan Memiliki Desain Lebih Rendah Dari Harga Aslinya.”

⁴⁶ Ahmadi Miru and Sutarman Yodo, *Hukum Perlindungan Konsumen* (Jakarta: Raja Grafindo Persada, 2015).

⁴⁷ Al-Qurṭubī, *Bidāyatu Al-Mujtahid Wa Nihāyatu Al-Muqtaṣid*.

⁴⁸ Richard Burton Simatupang, *Aspek Hukum Dalam Bisnis* (Jakarta: Rineka Cipta, n.d.).

with the concepts of “imitation” or “replica.” Therefore, KW goods are defined as goods produced as copies, replicas, or imitations of other goods.⁴⁹ “KW goods” are produced without the utilization of the relevant trademark rights; manufacturers merely replicate them. Consequently, it can be succinctly stated that “KW goods” are counterfeit goods. According to Kamus Besar Bahasa Indonesia (KBBI), counterfeit goods are defined as “replicas,” which are defined as “imitations” that are “not genuine” or “fake.”⁵⁰ The terms “counterfeiting” and “piracy” are essentially synonymous, as both involve the reproduction of goods that are identical to the original.⁵¹

Conversely, imitation products are created by referring to or imitating pioneer products. The imitation of products can be achieved through the replication of their design, the fabrication of generic products at reduced prices, and the incorporation of enhancements from previous iterations.⁵²

c. Classification of Imitation Products

The classification of products can be approached from a variety of perspectives. The classification of products is predicated on their tangibility, which is further delineated into two primary categories:

1) Non-durable Goods

Non-durable goods are defined as tangible goods that are typically consumed after one or multiple uses. Examples of this category include soap, beverages, and snacks, as well as chalk, sugar, and salt.

2) Durable Goods

Durable goods are defined as tangible goods that possess a high degree of durability, often exhibiting a prolonged lifespan when subjected to repeated use. Examples of such technologies include televisions, refrigerators, automobiles, and computers. Services are defined as activities that provide benefits or satisfaction and are offered for sale. Examples of such establishments include garages, beauty salons, courses, hotels, and educational institutions.⁵³ Furthermore, products are typically classified based on the characteristics of the consumers who utilize them and the purposes for which they are employed.

In accordance with the aforementioned criteria, the classification of products can be categorized into two distinct groups: consumer goods and industrial goods. Consumer goods are defined as goods that are consumed for the benefit of the customer, whether an individual or a household, and not for business purposes. A taxonomy of consumer goods is generally delineated into the following four classifications:

1) Convenience Goods

⁴⁹ Farid Ma'ruf, “Hukum Barang KW (Tiruan),” n.d.

⁵⁰ Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*.

⁵¹ J.L. Kay and KKY Zaichowsky, “Brand Imitation: Do the Chinese Have Different Views?,” *Asia Pacific Journal of Manajement* 16, no. 2 (1999): 179–92, <https://doi.org/10.1023/A:1015482707900>.

⁵² Nanda Amelia, “Pengaruh Citra Merek, Harga Dan Gaya Hidup Terhadap Keputusan Pembelian Produk Fashion Imitasi” (Universitas Sumatera Utara, 2016).

⁵³ Philip Kotler, *Problematika Pemasaran Dan Solusinya* (Jakarta: Prenhallido, 2002).

Convenience goods are defined as those goods that are required immediately and require minimal effort to procure. Examples of such substances include cigarettes, soap, toothpaste, batteries, sweets, and newspapers. Convenience goods can be further classified into three types, namely:

- a) Staples are defined as goods that consumers purchase with regularity. Examples of staples include bath soap and toothpaste.
- b) Impulse goods are defined as items that are purchased without prior planning or effort to find them. These goods are usually available in various places. Examples of these phenomena include confections, chocolate, and magazines.
- c) Emergency goods are defined as items procured in situations of immediate necessity, including umbrellas and raincoats during the rainy season.⁵⁴

2) Shopping Goods

Shopping goods are defined as items that are meticulously evaluated and selected from among a range of available alternatives prior to purchase. The comparison encompasses a multifaceted evaluation of each item, including its price, quality, and model. Examples of these include household appliances, clothing, and furniture. Shopping goods can be categorized into two distinct types:

- a) Homogeneous shopping goods refer to items that are regarded as analogous in terms of quality, yet exhibit notable disparities in terms of cost. Examples of such devices include tape recorders, televisions, and washing machines.
- b) Heterogeneous shopping goods are defined as goods whose characteristics or features are considered more significant than their price. Examples of this phenomenon include household appliances, furniture, and clothing.

3) Specialty Goods

Specialty goods are defined as goods that possess distinctive characteristics and brand identification, which compels consumers to make a deliberate effort to acquire them. Examples of such products include Lamborghini automobiles and Nikon cameras.

4) Unsought goods

Unsought goods are defined as items that are not typically considered for purchase. There are two types of unsought goods, namely:

- a) Regularly unsought goods is defined as items that are both known and available for purchase, yet are not considered for acquisition.
- b) New unsought goods are defined as items that are entirely novel and previously unidentified. The existence of this particular item is indicative of innovation, as it signifies the transformation of existing products into novel ones. Consequently, awareness of such items is limited among the general population.⁵⁵

d. Factors Contributing to the Sale of Imitation Products

The following factors have been identified as contributing to the occurrence of the sale and purchase of counterfeit goods:

1) To Meet Increasing Living Expenses

⁵⁴ Kotler.

⁵⁵ Kotler.

The increasing needs of humans and the diversity of humanity have led people to justify any means to fulfill their needs without regard for Islamic law.⁵⁶ Thus, as human needs increase, many people engage in activities prohibited by Islam in order to gain profit.

2) Excessive Living Standards Demands

The standard of living is defined as the lifestyle and level of comfort that an individual requires in order to attain and preserve their objectives through legitimate means.⁵⁷ The standard of living of an individual serves as the catalyst that motivates them to undertake any necessary actions to achieve the desired level of comfort.

3) Human Greed

Human desires are said to be infinite. The fulfillment of one desire invariably gives rise to another, creating a perpetual cycle of discontent that defies satisfaction.⁵⁸ Consequently, human beings perpetually seek the gratification of their desires, often resorting to extreme measures to achieve their objectives.

4) Business Competition

The exchange of goods and services is undertaken exclusively for the purpose of generating profit. The pursuit of quality and useful goods for the community is not a priority.⁵⁹ Competition in business has evolved into practices of unfair competition that justify any means to obtain greater profits.⁶⁰ Consequently, business actors disregard the norms and rules that apply according to Islamic law, engaging in activities that are not recommended.

4.3 The Position of Trademark Rights in the Perspective of Fiqh Muamalah

In contemporary muamalah studies, trademark rights are regarded as a component of intellectual property rights that possess economic value (*ḥuqūq māliyyah*) and must be safeguarded by sharia law. Contemporary Islamic jurists posit that trade names, commercial addresses, trademarks, writings, inventions, and works are considered property rights that cannot be violated and can be transferred as long as there is no fraud or misappropriation.⁶¹ This perspective is supported by the findings of fatwas reviewed on question-and-answer websites. In a similar vein, the International Islamic Fiqh Academy has ruled that rights such as trade names and trademarks are rights recognized by Islamic law and must not be violated.⁶² Consequently, the infringement of trademark rights constitutes *ta'addī 'alā ḥuqūq al-gayr* (violation of the rights of others). While physical possession is not inherently equivalent to trademark rights, trademark rights constitute a valid object in muamalah contracts, and their legal ramifications must be accorded serious consideration.

In the context of fiqh muamalah, *riḍā* (consent) constitutes a pivotal element in the formation of sale and purchase contracts. However, in transactions involving the rights of others, consent is not absolute because Islamic law requires that transactions

⁵⁶ Afzalurrahman, *Doktrin Ekonomi Islam* (Yogyakarta: Dana Wakaf, n.d.).

⁵⁷ Afzalurrahman.

⁵⁸ Adiwarman A.Karim, *Fikih Ekonomi Keuangan Islam* (Jakarta: Darul Haq, 2004).

⁵⁹ A.Karim.

⁶⁰ Muhammad Ismail Yusanto, *Menggagas Bisnis Islami* (Jakarta: Gema Insani Pers, 2002).

⁶¹ IslamQA, "Intellectual Property Rights - Islam Question & Answer," IslamQA, n.d.

⁶² IslamOnline, "Islam Dan Hak Kekayaan Intelektual-Fiqih," IslamOnline, n.d.

must not involve the unlawful taking of property. Consequently, the consent granted to the purchaser of imitation goods cannot nullify the infringement of the intellectual property rights of the original manufacturer.⁶³

Consequently, the notion of collective consent has emerged in modern economics as a continuation of the classical bilateral consent agreement, which also considers social effects and the rights of third parties. The fulfillment of intellectual property rights is a prerequisite for the social normalization of the trade in imitation goods, as it constitutes valid consent under Islamic law. Islamic law respects immaterial property rights as part of the protection of property (*hifz al-māl*).⁶⁴

The Indonesian market has demonstrated a substantial demand for quality goods at affordable prices (*hājah*). However, the use of *hājah* as a justification for intellectual property rights violations is not permissible, as sharia-compliant alternatives are available. This is due to the fact that Islam respects individual rights and rejects transactions that harm others.⁶⁵ In accordance with the *maqāṣid al-syarī'ah* in fulfilling needs (*hājah*) and removing difficulties (*raf' al-ḥaraj*), these objectives can be achieved without violating the principles of justice and protection of property.⁶⁶

4.4 Fiqh Muamalah Review of Imitation Products

The regulation of transactions by Islamic law is predicated on the premise that it will engender a culture of mutual assistance, thereby circumventing the potential for harm to arise from these interactions. In the realm of business, vigilance is not only imperative for oneself but also for business partners and third parties who may harbor malicious intentions. Third parties that require vigilance in business dealings include the devil, who, among other things, seeks to inflict harm on humans to the greatest extent possible. In the event that this objective is not realized, even a modicum of loss is sufficient. In Surah al-Baqarah/2: 268, the Almighty Allah states:

الشَّيْطَانُ يَعِدُكُمُ الْفَقْرَ وَيَأْمُرُكُم بِالْفَحْشَاءِ وَاللَّهُ يَعِدُكُم مَّغْفِرَةً مِّنْهُ وَفَضْلًا وَاللَّهُ وَاسِعٌ عَلِيمٌ

Translation:

Satan promises you poverty and urges you to be wicked (stingy), whereas Allah promises you forgiveness and His bounty. And Allah is All-Encompassing, All-Knowing.⁶⁷

In Islam, the practice of buying and selling is clearly delineated and regulated to ensure that neither the seller nor the buyer is disadvantaged. However, it should be

⁶³ IslamQA, "Intellectual Property Rights - Islam Question & Answer."

⁶⁴ Ismail Koto et al., "Perlindungan Hukum Atas Kekayaan Intelektual Perspektif Hukum Islam," *Jurnal Yuridis* 10, no. 2 (December 2023): 66–73, <https://doi.org/10.35586/jjur.v10i2.7142>.

⁶⁵ Koto et al.

⁶⁶ Risdayani Risdayani et al., "Maqāṣid Al-Syarī'ah Analysis of the Implementation of Food Social Assistance on Multidimensional Welfare in Indonesia (2020-2023)," *AL-IKTISAB: Journal of Islamic Economic Law* 8, no. 2 (November 2024): 139–56, <https://doi.org/10.21111/aliktisab.v8i2.12972>.

⁶⁷ Kementerian Agama Republik Indonesia, *Al-Qur'an Dan Terjemahan*.

noted that not all products offered for sale are authentic; some traders sell counterfeit products, including shoes, bags, and other items. Nevertheless, a fundamental principle governs the actions of traders or sellers in the context of buying and selling. This principle asserts that individuals must obtain consent before exercising rights that infringe upon others' interests. Moreover, it is imperative to refrain from deceiving or misleading consumers.⁶⁸

In the context of commercial transactions involving imitation products, certain merchants may neglect to disclose the nature of the goods as imitations. This oversight is often attributed to an assumption that consumers possess the capacity to discern quality from price. The issue at hand is rendered moot by the fact that, in the event that it has become a social norm, the most critical element in a sale and purchase transaction is mutual consent. According to the Islamic prophet Muhammad (peace be upon him),

إِنَّمَا الْبَيْعُ عَنْ تَرَاضٍ⁶⁹

Meaning:

Indeed, buying and selling is based on mutual consent. (HR. Ibnu Majah)

Then, in the rules of muamalah fiqh

الْأَصْلُ فِي الْعَقْدِ رِضَى الْمُتَعَاقِدَيْنِ⁷⁰

Meaning:

The basis of a contract is the mutual consent of both parties.

As elucidated in the verses of the Qur'an, the words of the Prophet Muhammad (peace be upon him), and the principles of fiqh muamalah, it can be concluded that mutual consent is a fundamental principle in transactions. Therefore, transactions can be considered valid under the condition that they are founded upon mutual consent between the parties involved. Consequently, a contract is considered invalid under such circumstances as coercion, force, or deceitful intent directed towards one of the parties. It is conceivable that at the time of the contract's execution, both parties may have mutually consented to its terms. However, subsequent to the execution of the contract, one party may come to feel deceived, thereby leading to the invalidation of the contract.

Therefore, it can be concluded that the sale and purchase of imitation products is permissible if the sale and purchase activity fulfills all the conditions of sale and purchase, in accordance with the conditions of sale and purchase as stated by the Hanafi scholars. The scholars stipulate that the only condition of sale and purchase is the willingness of both parties to sell and purchase. This element of willingness manifests in the *ijab* and *kabul*, as well as through certain beneficial means. The Hanafi scholars specify that the *ijab* (the buyer's expression of purchase) and *kabul* (the seller's statement of sale) are the fundamental mechanisms for this transaction. Alternatively, the

⁶⁸ Enang Hidayat, *Fiqh Jual Beli* (Bandung: Remaja Rosda Karya, 2015).

⁶⁹ Yazīd, *Sunan Ibnu Mājah*.

⁷⁰ Wahbah Al-Zuhaylī, *Al-Qawā'id Al-Fiqhiyyah Wa-Tatbiqātihā Fī Al-Madhāhib Al-Arba'ah* (Damascus: Dār al-Fikr, 2006).

exchange of goods and prices can be conducted in accordance with the agreement between the seller and the buyer.⁷¹

The concept of willingness is inherent in the process of *ijab* and *kabul*. According to the Hanafi school of thought, the exchange of goods or services (*bay'*) is considered valid only when both parties explicitly express their consent to engage in the transaction. This concept is known as the *ijab* and *kabul*. According to Sharia law, *in 'iqād* is defined as a verbal agreement between two parties. This agreement is considered evident in the context of a sale and purchase transaction. Conversely, the predominant scholarly consensus posits that there are four fundamental principles that govern the process of sale and purchase, which are collectively referred to as the "four pillars of sale and purchase." The terms "*sigāt ijāb*" and "*qabūl*" are collectively referred to as "*akad*," which is also known as a "contract." The individual who initiates the contractual agreement, referred to as the "seller" or the "buyer" (*muta'āqidain*), and the specific item or service being purchased, along with its associated monetary value, constitute the essence of the agreement.⁷²

The Syafi'i school of thought also stipulates that the purchase and sale of goods is permissible under the condition that the goods in question have been inspected prior to the transaction. Alternatively, the sale of goods may be permitted if the goods are traded based on their known characteristics and properties, as long as these characteristics and properties are guaranteed by the seller. The exchange of goods is permissible under certain conditions. Firstly, the goods in question must be in accordance with the specified characteristics. Secondly, the type and properties of the goods must be known. Finally, the goods must be intended for purchase. It is imperative to note that additional requirements pertaining to the transaction of goods are in effect. In accordance with the stipulated terms, the goods in question must be distinctly visible to both parties involved in the agreement.⁷³ According to Islamic law, Muslims are forbidden from engaging in acts of forgery, fraud, and betrayal. These actions are considered forms of oppression and harm to others, and they can also lead to hostility and hatred. Such conduct is incongruent with the fundamental tenets of human nature and the inherent essence of an intelligent soul.⁷⁴

The concept of buying and selling imitation products is not inherently invalid or unlawful; however, it is considered haram and sinful because it causes harm, namely, it can cause losses to other parties by violating the intellectual property rights of the original manufacturer without permission. This is due to the absence of authorization or acceptance from the original manufacturer. The exchange of imitation products is considered a transaction proscribed by Islamic law. This is due to the fact that, according to the Hanafi scholars, the only requirement for a valid transaction is the mutual consent of both parties to buy and sell, or to exchange goods and prices. This is similar to the opinion of the Hanbali scholars. A merchant's failure to disclose the quality of goods to consumers, operating under the assumption that consumers have a comprehensive understanding of pricing, is not problematic if it aligns with estab-

⁷¹ Nasrun Haroen, *Fikih Muamalah* (Jakarta: Gaya Media Pratama, 2007).

⁷² Siddik, *Inti Dasar Hukum Dagang Islam*.

⁷³ Romadhon, *Jual Beli Online Menurut Madzhab Asy-Syafi'i*.

⁷⁴ Asyraf Muhammad Dawwabah, *Meneladani Keunggulan Bisnis Rasulullah* (Semarang: Pustaka Nuun, 2006).

lished social norms. According to the Hanafi scholars, the only essential element of a sale is the mutual consent of both parties to engage in the transaction. However, there are also scholars who require a detailed understanding of both the quality and quantity of the goods.

A review of fiqh muamalah reveals that the permissibility of selling and buying imitation products is contingent upon the principles articulated in the Qur'an, hadith, and the scholarly consensus. From a jurisprudential standpoint, the sale and purchase of imitation products is permissible under certain conditions. Primarily, these conditions include mutual consent between the seller and the buyer, aligning with the fundamental tenets of Islamic commercial law. However, from the perspective of muamalah law, the practice of buying and selling is not in accordance with Islamic law. This is due to the presence of elements of *tadlīs*, namely uncertainty regarding the quality of the product, and elements of deception that result in losses for the buyer. Accordingly, the purchase and sale of imitation products is strictly forbidden under Islamic law.

5 Conclusion

The sale and purchase of imitation products, such as counterfeit goods that formally imitate well-known brands, can be considered as fulfilling the pillars and conditions of a contract, namely *ijab-kabul* with the consent of both parties (*riḍā*), as stated in the Hanafi and Hanbali schools of thought. These schools of thought influence the agreement between the seller and buyer without coercion. Imitation products are defined as illegal reproductions that bear a striking resemblance to the original goods in terms of design, logo, and quality. These products are often sold at significantly lower prices to meet the economic demands of consumers, driven by factors such as economic pressures, avarice, excessive living standards, and unhealthy business competition.

However, from the perspective of fiqh muamalah, this practice is considered to be haram and prohibited by Islamic law due to its association with *tadlīs* (deception), *garar* (uncertainty of quality), and *ḍarar* (harm) to third parties, such as the original producers of intellectual property rights violations without authorization. This phenomenon bears resemblance to the concept of “fasid” or “prohibited” sales, which encompasses practices such as manipulation and piracy. This study suggests that *tadlīs*, *garar*, and *ḍarar* are prohibited, even if the formal conditions of the contract are met. This finding encourages Muslims to avoid this practice for the sake of transaction honesty and protection of the original producer's rights, in accordance with the principle of *riḍā*. It is recommended that future research be directed towards the empirical analysis of the factors driving the sale and purchase of imitation goods in the Indonesian market.

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