

PERUBAHAN PARADIGMA POLITIK HUKUM HAK KEKAYAAN INTELEKTUAL (HKI) UNTUK MEWUJUDKAN DAYA SAING NASIONAL: STUDI PERLINDUNGAN RAHASIA DAGANG BIDANG OBAT-OBATAN TRADISIONAL

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Abstract

Paradigm Change of Political Law of Intellectual Property Rights (IPR) to Materialize the National Competitiveness: the Study of Trade Secret Protection in the Field of Traditional Medicine.

Research and discussion regarding legal political paradigm change on Law of Intellectual Property Rights (IPR) in Indonesia, especially trade secrets in the field of traditional medicine was important, at least for three problems. Firstly, why paradigm of Intellectual Property Rights (IPR) in Indonesia was to change. Secondly, what efforts had be done by the Indonesian government in these changes, so that they created national competitiveness. Thirdly, whether or not the legal culture of Indonesian people accepted the trade secret protection of traditional medicine sector.

This research used three research methods, i.e. normative, qualitative, and comparative. First, normative juridical methods focussed on the study of the legal norms that contained laws and regulations, international conventions, treaties, court decisions, and living legal norms in society. Second, in addition to legislation, international conventions and treaties, this study also exposed the people's views on the protection of trade secrets in the field of traditional medicine. On this level, the research was carried out by using the qualitative method. This method referred to the research procedure intended to provide a picture of the data in depth from all aspects (holistic). Third, the study also included comparison information with some other countries in the same way, particularly with regard to the system and mechanism of protection in the field of Intellectual Property Rights (IPR).

The research and analysis results showed several new findings: First, the Indonesia Intellectual Property Rights (IPR) paradigm based on Pancasila as the philosophical foundation, the Constitution 1945 was functioned as the Juridical foundation and social realities of Indonesia as a sociological foundation. Second, the Indonesia Government's efforts in these changes were done, made, and alligned so as the the Intellectual Property Rights (IPR) legal system derived from western was individualistic in nature that was not appropriate to provide protection against traditional knowledge where the owners were more communal or collective. Third, traditional society's legal culture had not fully covered the need for protection arrangements of trade secret as they still were in traditional agrarian public relations.

Finally, the researcher argued that togetherness and spiritualism philosophy embraced by the Indonesian society created values for the citizen's intellectual superiority in form of traditional medicine knowledge should not have been monopolized by only those knowledgable parties.

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