

Tinjauan yuridis tentang klausula grant back dalam perjanjian lisensi paten

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Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20298309&lokasi=lokal>

Abstrak

Skripsi ini membahas mengenai implikasi klausula Grant Back (Lisensi Kembali) dalam Perjanjian Lisensi Paten. Pengaturan klausula Grant Back dalam perjanjian lisensi sulit diketahui karena umumnya Perjanjian Lisensi Paten bersifat tertutup. Namun hal tersebut penting untuk diketahui mengingat keberadaan klausula tersebut dapat melindungi pemberi lisensi namun juga berpotensi menimbulkan persaingan usaha yang tidak sehat. Penelitian ini menggunakan metode hukum normatif untuk menghasilkan data yang bersifat deskriptif analitis. Analisa mengenai implikasi Grant Back selanjutnya akan dilakukan dengan melihat perbandingan penerapan hukumnya di Indonesia, Jepang, dan Amerika. Berdasar perbandingan pengaturan tersebut, maka disimpulkan bahwa klausula Grant Back dalam lisensi paten memerlukan batasan tertentu sehingga dapat memberi keuntungan seluruh pihak dalam perjanjian lisensi, yaitu pemberi lisensi dan penerima lisensi, serta pasar.

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This thesis analyzed the implication of Grant Back clause in the License Patent Agreement. There is a notable difficulty in observing the arrangement of the clause, due to the nature of License Patent Agreement, which is strictly restricted and cannot be disclosed outside the involved parties. However, it is critical to understand the existence of such clausal since while it can protect the licensor, it is also prone to trigger unfair business practices. This thesis uses normative law method to generate descriptive analysis data. Following that, the analysis of Grant Back implication will be examined through comparison study of its law application in Indonesia, Japan, and United States. Based on the arrangement comparison, it is concluded that Grant Back clause in Patent License requires specific restrain and condition to ensure that it can be beneficial to all parties involved in the license agreement, i.e., licensor and licensee, as well as the market.