

Transisi budaya hukum masyarakat jepang kasus haki nakamura shuji vs. nichia corporation

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Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20424947&lokasi=lokal>

Abstrak

<i>Since the amendment of patent law (Law No. 47 Year 2003), there have been cases of employees' claim towards their companies regarding the intellectual property rights produced in the relationship. The occurrence of this case is because according to the constitution individual rights iss admitted. This is regulated in the article 32 of Nihon-Koku Kempoo (1947) that stipulated "No person shall be denied the right of access to the courts". Based on this constitution (kempoo), there is new rights to go to the court for each person-to have access in the court. Shuji Nakamura sued Nichia Corporation to the Tokyo District Court to claim the right of "reasonable remunerations" as a reward for his invention based on article 35 (3) (4) the Patent Law (Law No. 47 Year 2003). This prosecution as caused controversy in the public. The company has the opinion thaht the employees are their members and therefore the invention that they produced in the work relationship is the property of the company. On the contrary, the employees have the opinionthat even though the create the invention in the work relation, however, because their invention has provided great profit to the company, it is fair if the company share a reasonable remuneration part of the profit. In the past, the Japanese employees tend to have high work moral. They have the shido ethics (unlimited loyalty) towards the company. However, with the occurrence of the case of Nakamura we can say that there is a shifting of legal culture from unlimited loyalty in to "give and take" one or limited loyalty. SImilarly, with the sifting of shundonshugi or collectivism into kojinsugi namely individualism. Nakamura demanded the justice in terms of economy and ignored the company reward, ignored the Japanese cultural values. The Japanese employees lost their work moral because it is shaken by economic view. The case of Nakamura indicates that these is a change of culture which cause a controversy between law and work morale (culture).</i>