

Analisis Penerapan Trademark Coexistence Agreement di Indonesia = Analysis of Trademark Coexistence Agreement Implementation in Indonesia

Amanda Aretha Wimbowo, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=9999920518966&lokasi=lokal>

Abstrak

Trademark Coexistence Agreement merupakan suatu perjanjian yang memungkinkan adanya keberadaan Merek yang memiliki persamaan dengan Merek lainnya untuk saling hidup berdampingan dan diberikan perlindungannya. Hingga saat ini, terdapat cukup banyak negara anggota TRIPs Agreement dan Paris Convention yang telah memiliki regulasi serta memberlakukan koeksistensi Merek melalui suatu perjanjian. Namun, di Indonesia masih belum terdapat pengaturan terkait Trademark Coexistence Agreement. Dalam skripsi ini, penulis akan menganalisis penerapan Trademark Coexistence Agreement di Indonesia dengan menganalisis Trademark Coexistence Agreement sebagai sebuah perjanjian dan menganalisis alasan beberapa negara TRIPs Agreement dan Paris Convention mengakui konsep koeksistensi Merek. Metode yang digunakan dalam penelitian ini adalah yuridis-normatif dengan memperoleh data dari studi kepustakaan dan wawancara. Hasil dari penelitian ini menunjukkan bahwa Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis tidak memperbolehkan pendaftaran Merek yang memiliki persamaan. Kemudian, dari segi hukum perdata Trademark Coexistence Agreement tidak dapat memenuhi salah satu syarat sah perjanjian yaitu adanya sebab yang halal karena Trademark Coexistence Agreement memperjanjikan hal-hal yang dilarang oleh Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis, yaitu pendaftaran Merek yang memiliki persamaan dengan Merek lainnya. Namun, pada praktiknya diketahui bahwa Direktorat Jenderal Kekayaan Intelektual telah menerapkan konsep koeksistensi Merek melalui pengajuan Trademark Coexistence Agreement karena Trademark Coexistence Agreement dianggap mendatangkan banyak manfaat khususnya bagi para pelaku usaha. Atas hal tersebut, sangat dibutuhkan pengaturan khusus terkait kebolehan koeksistensi Merek melalui suatu Trademark Coexistence Agreement di Indonesia, agar praktik koeksistensi Merek di Indonesia dapat dijalankan secara konstitusional.

.....Trademark Coexistence Agreement is an agreement that allows the existence of a Trademark that has similarities with other Trademark to coexist with each other and is given protection. Until now, there are quite a number of member countries of the TRIPs Agreement and the Paris Convention that already have regulations and enforce Trademark coexistence through an agreement. However, in Indonesia there is still no regulation related to the Trademark Coexistence Agreement. In this thesis, the author will analyze the implementation of the Trademark Coexistence Agreement in Indonesia by analyzing the Trademark Coexistence Agreement as an agreement and analyzing the reasons why several TRIPs Agreement countries and the Paris Convention recognize the concept of Trademark coexistence. The method used in this research is juridical-normative by obtaining data from literature studies and interviews. The results of this study indicate that Law Number 20 of 2016 concerning Marks and Geographical Indications does not allow the registration of Marks that have similarities. Then, from the point of view of civil law, the Trademark Coexistence Agreement cannot fulfill one of the legal requirements of the agreement, namely the existence of a lawful cause because the Trademark Coexistence Agreement promises things that are prohibited by Law

Number 20 of 2016 concerning Marks and Geographical Indications, namely Trademark registration which have similarities with other brands. However, in practice it is known that the Directorate General of Intellectual Property has implemented the concept of Trademark coexistence through the submission of a Trademark Coexistence Agreement because Trademark Coexistence Agreements are considered to bring many benefits, especially for business actors. On this matter, special regulation are urgently needed regarding the permissibility of Trademark coexistence through a Trademark Coexistence Agreement in Indonesia, so that the practice of Mark coexistence in Indonesia can be carried out constitutionally.