

KEPASTIAN HUKUM DALAM PENGALIHAN RAHASIA DAGANG DI INDONESIA BERDASARKAN UNDANG-UNDANG NOMOR 30 TAHUN 2000

Lu Sudirman
Wagiman

Abstract

Trade secrets are an integral part of the Intellectual Property Rights (IPR) system, holding strategic value in maintaining business competitiveness in the era of globalization. Law Number 30 of 2000 on Trade Secrets provides a legal framework for the protection of information that has economic value and is not generally known to the public. One of the crucial aspects regulated under this law is the transfer of rights over trade secrets through various mechanisms, including inheritance, grants, wills, written agreements, or other lawful causes recognized by legislation. Although these provisions are intended to provide legal certainty for the parties involved, in practice there remain challenges related to the validity of transfers, the requirement for registration with the Directorate General of Intellectual Property, and the legal consequences for third parties if such transfers are not recorded.

This research aims to analyze the extent to which legal certainty in the transfer of trade secrets can be guaranteed under the existing provisions, as well as to identify potential legal issues that may arise. The method employed is normative juridical research with a statutory and conceptual approach. The primary sources of data consist of statutory regulations, particularly Law Number 30 of 2000, supported by secondary legal materials such as academic literature and legal doctrines.

The analysis reveals that the obligation to register the transfer of trade secrets with the Directorate General functions as an administrative instrument that reinforces legal certainty, since only registered transfers have binding legal effects on third parties. Nevertheless, the regulation still leaves certain legal gaps, such as the absence of mechanisms to supervise the substance of the transfer, which could potentially lead to disputes, as well as the weak enforcement of sanctions when registration is not carried out. Furthermore, the dynamics of modern business transactions, which demand speed and flexibility, often conflict with strict administrative procedures, leading business actors to neglect the registration requirement.

Keywords: Legal Certainty, Trade Secrets, Transfer of Rights

A. Latar Belakang

Salah satu aspek yang krusial dalam perlindungan rahasia dagang adalah mekanisme pengalihan hak. Undang-Undang Nomor 30 Tahun 2000 tentang Rahasia Dagang mengatur bahwa hak atas rahasia dagang dapat dialihkan melalui pewarisan, hibah, wasiat, perjanjian tertulis, maupun sebab lain yang dibenarkan hukum.