

Penerapan perlindungan hukum atas merek non tradisional berdasarkan Singapore Treaty on the Law of Trademarks di Indonesia = The implementation of non traditional trademarks protection under Singapore Treaty on the Law of Trademarks in Indonesia

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Abstrak

[ABSTRAK

Penulisan tesis ini bertujuan untuk mengetahui bagaimana perlindungan atas merek non-tradisional apabila dimuat ke dalam kerangka hukum nasional Indonesia. Permasalahan dalam tesis ini adalah bagaimana pengaturan mengenai pendaftaran merek dalam Singapore Treaty On The Law Of Trademarks, bagaimana penerapan atas perlindungan merek non-tradisional yang ada dalam Singapore Treaty On The Law Of Trademarks pada negara-negara yang telah melaksanakannya dan bagaimana penerapan perlindungan atas merek nontradisional tersebut apabila diterapkan di Indonesia. Penulisan tesis ini menggunakan metode penelitian hukum normatif dengan data sekunder sebagai sumber datanya.

Pengaturan merek yang terdapat dalam Singapore Treaty On The Law Of Trademarks tidak jauh berbeda dengan pengaturan merek dalam Trademark Law Treaty, namun terdapat beberapa penambahan didalamnya yang bertujuan untuk menyempurnakan ketentuan pendaftaran di bidang merek. Salah satu hal yang baru diatur dalam Singapore Treaty On The Law Of Trademarks adalah mengenai merek non-tradisional. Merek non-tradisional ini telah diterapkan di beberapa negara, baik negara anggota dari Singapore Treaty On The Law Of Trademarks, maupun yang tidak termasuk dalam anggotanya. Dalam penerapannya, diperlukan beberapa persyaratan dalam mengajukan permohonan pendaftaran merek nontradisional.

Dalam mendaftarkan merek non-tradisional, diperlukan persyaratan representasi grafis dan deskripsi tertulis untuk menggambarkan serta mendeskripsikan merek non-tradisional tersebut. Indonesia sebagai negara berkembang, seharusnya melakukan perluasan pengertian merek yang juga akan selalu berkembang, dengan mengatur mengenai perlindungan merek non-tradisional dalam Peraturan Perundang-Undangannya, hal ini akan memberikan dampak positif bagi para pelaku usaha di Indonesia, karena dengan demikian, para pelaku usaha dapat lebih kreatif dalam memilih merek untuk kegiatan usahanya, yang tidak lagi hanya dibatasi dengan tanda-tanda yang dapat dilihat (visible signs).

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This thesis aims to determine how the protection of non-traditional trademarks when applied into Indonesian legal framework. The research problems in this thesis are about the regulation under Singapore Treaty On The Law Of Trademarks in registering a trademark, the implementation of non-traditional trademark protection, conducted by The Singapore Treaty On The Law Of Trademarks contracting party and the implementation of that kind protection when applied in Indonesia. This thesis uses the normative legal research method, and the secondary data is used as its source.

The regulations in Singapore Treaty On The Law Of Trademarks do not have many differences with the Trademark Law Treaty, but there are some additions within the aims to enhance the requirements in registering a trademark. One new thing that sets in the Singapore Treaty On The Law Of Trademarks is about the non-traditional trademark. This non-traditional trademarks have been applied in several countries, both members and non-members of the Singapore Treaty On The Law Of Trademarks. In its implementation, it will take some requirements with respect to the non-traditional trademarks registration.

With respect to the non-traditional trademark registration, graphical representation and written descriptions are needed to illustrate and describe the non-traditional trademarks. Indonesia as a developing country, is supposed to expand the value of a trademark, which will also always evolving, by regulating the protection of nontraditional trademarks in its legislation, this will give positive impacts for Indonesian entrepreneurs, for then, the entrepreneurs might be more creative in choosing trademarks for its business activities, which are no longer only constrained by visible signs.;This thesis aims to determine how the protection of non-traditional trademarks when applied into Indonesian legal framework. The research problems in this thesis are about the regulation under Singapore Treaty On The Law Of Trademarks in registering a trademark, the implementation of non-traditional trademark protection, conducted by The Singapore Treaty On The Law Of Trademarks contracting party and the implementation of that kind protection when applied in Indonesia. This thesis uses the normative legal research method, and the secondary data is used as its source.

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