

Eksistensi perlindungan paten atas vaksin covid-19 = The existence of patent protection for covid-19 vaccine

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Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20513160&lokasi=lokal>

Abstrak

Vaksin Covid-19 diharapkan dapat menjadi solusi untuk kembali hidup normal. Namun, kebutuhan vaksin yang bersifat global menimbulkan beberapa pertanyaan di masyarakat, khususnya terkait eksistensi perlindungan paten. Untuk itu, penulisan ini akan menjawab pertanyaan-pertanyaan tersebut dengan membahas patentabilitas vaksin Covid-19 serta bagaimana cara pelaksanaan perlindungan paten di tengah pandemi dan kekhawatiran masyarakat akan keterbatasan akses terhadap vaksin. Metode penelitian yang digunakan dalam penulisan skripsi ini adalah yuridis normatif dengan pendekatan kualitatif di mana data-data berasal dari studi pustaka dan wawancara. Berdasarkan penelitian Penulis, Penulis sampai pada simpulan bahwa vaksin Covid-19 dapat memperoleh perlindungan paten selama permohonan akan paten telah diajukan kepada kantor paten di mana vaksin telah memenuhi seluruh persyaratan patentabilitas. Dikarenakan tidak adanya mekanisme perlindungan paten secara internasional, permohonan paten harus diajukan di banyak negara untuk memaksimalkan cakupan wilayah perlindungan paten. Untuk itu, pemohon dapat mengajukan permohonan dengan sistem Patent Cooperation Treaty (PCT) di negara-negara anggota PCT dan dengan sistem country-by-country basis di negaranegara non anggota PCT. Adapun adanya perlindungan paten tidak akan menghalangi akses masyarakat terhadap vaksin Covid-19. Hal ini dapat diwujudkan melalui mekanisme non-voluntary license berbentuk compulsory license atau government use. Sementara untuk voluntary license, pelaksanaannya dapat melalui Medicine Patent Pool.

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The Covid-19 vaccine is expected to be a solution to return to normal life. However, the need for vaccines that are global in nature raises several questions in the community, especially regarding the existence of patent protection. For this reason, this paper will answer these questions by discussing the patentability of the Covid-19 vaccine as well as how to implement patent protection in the midst of a pandemic and public concerns about limited access to vaccines. The research method used in the writing of this thesis is normative juridical with a qualitative approach where the data comes from literature studies and interviews. Based on the author's research, the author came to the conclusion that the Covid-19 vaccine can obtain patent protection as long as a patent application has been submitted to the patent office in which the vaccine meets all the patentability requirements. Due to the absence of an international patent protection mechanism, patent applications must be filed in many countries to maximize the scope of patent protection areas. For this reason, applicants can apply using the Patent Cooperation Treaty (PCT) system in PCT member countries and using the country-by-country basis system in non- PCT member countries. The existence of patent protection will not prevent public access to the Covid-19 vaccine. This can be realized through a non-voluntary license mechanism in the form of a compulsory license or government use. Meanwhile, for voluntary licenses, the implementation can be done through the Medicine Patent Pool.