

ABSTRAK

PERLINDUNGAN HUKUM TERHADAP DESAIN INDUSTRI DALAM PELAKSANAAN PRINSIP KEADILAN MENURUT TEORI KEADILAN JOHN RAWLS (STUDI KASUS PUTUSAN NOMOR 35 PK/PDT.SUS-HKI/2014)

Desain Industri timbul ketika Pemegang Hak Desain Industri yang memiliki hak eksekutif untuk melaksanakan Hak Desain Industri yang dimilikinya, akan tetapi dipergunakan atau ditiru oleh orang lain, seperti kasus tentang Desain Industri Bolpoin, secara Hukum bagi Pengadilan Niaga Jakarta Pusat untuk menyatakan Pendaftaran yang dilakukan Tergugat I dengan nama Pendesain Tergugat II pada kantor Tergugat III sebagaimana dalam Nomor Pendaftaran : ID O O23 6O2 – D bertanggal 28 Juli 2011, berjudul PENA BOLPOIN telah mengganggu kepentingan Penggugat sehingga Desain Industri tersebut harus dibatalkan secara Hukum.

Permasalahan dalam tulisan ini adalah Perlindungan Hukum Desain Industri terdaftar di Indonesia dan Penerapan Perlindungan peraturan Desain Industri terdaftar Berdasarkan Prinsip Keadilan menurut teori keadilan John Rawls terutama yang berkaitan dengan Putusan Nomor 35 PK/PDT.SUS-HKI/2014.

Penelitian ini menggunakan pendekatan Yuridis Normatif, yaitu pendekatan secara yuridis karena penelitian bertitik tolak pada peraturan Desain Industri yang digunakan dalam Pelaksanaan Desain Industri terdaftar terhadap prinsip keadilan dan sejauhmana Perlindungan Hukum Desain Industri terdaftar di Indonesia.

Hasil pembahasan dan analisis bahwa Perlindungan Hukum Desain Industri memiliki jangka waktu 10 tahun sesuai dengan Pasal 5 ayat (1) Undang-Undang No.31 Tahun 2000 tentang Desain Industri dan Penerapan Perlindungan Desain Industri terdaftar berdasarkan prinsip keadilan oleh John Rawls, berkaitan dengan Putusan Nomor 35 PK/Pdt.Sus-HKI/2014, putusan pengadilan belum berdasarkan prinsip keadilan.

Saran yang dapat disampaikan antara lain Bagi Pemegang Hak Milik Desain Industri dapat mempublikasikan Desain Industrinya secara seluas-luasnya, agar dapat diketahui oleh masyarakat banyak dan Bagi Pengusaha untuk Tata Cara Permohonan Pendaftaran harus sesuai dengan Pasal 13 Undang-Undang No.31 Tahun 2000 tentang Desain Industri.

Kata Kunci : Perlindungan Hukum Desain Industri, Prinsip Keadilan
Menurut Teori Keadilan John Rawls

ABSTRACT

LEGAL PROTECTION FOR INDUSTRIAL DESIGN IN THE IMPLEMENTATION OF THE PRINCIPLE OF JUSTICE ACCORDING TO JOHN RAWLS' THEORY OF JUSTICE (A CASE STUDY ON THE DECISION NUMBER 35PK/PDT.SUS-IPR/2014)

Problems related to Industrial Design arise when the holder of Industrial Design Right having the executive right upon the exploitation of his/her Industrial Design Right finds out that other parties use or imitate his/her Industrial Design. Such problem happened in the case of Industrial Design of a Ballpoint in which the Central Jakarta Commercial Court declared the Registration conducted by the first defendant towards the designer, the second defendant, in the office of the third defendant had to be legally cancelled. The decision was taken based on the charge entitled PENA Bolpoin with Registration Number: ID 023 6020—D dated 28 July 2011 reporting that the imitation of such industrial design had disrupted the Prosecutor, and therefore, the industrial design had to be legally invalidated.

This paper deals with the legal protection of industrial design registered in Indonesia and the application of the regulations on registered industrial design based on the justice principles of John Rawls' Theory of Justice, particularly the one associated with the Decision number 35PK/PDT.SUS-IPR /2014.

The study applies normative juridical approach. It is a juridical approach from which the starting point of the research lies on the regulation of industrial designs used in the implementation of the registered industrial design towards the principles of justice. Further, the study also discusses the extent to which legal protection of registered industrial designs in Indonesia is met. The discussion and analysis indicate that the Legal Protection of Industrial Design has a term of 10 years in accordance with Article 5 (paragraph 1) of Act number 31 of the 2000 regarding Industrial Design and the application of the Protection of registered industrial design. Based on John Rawls' principles of justice, in association with the Decision Number. 35PK/Pdt.Sus-IPR /2014, apparently the court decision has not been based on the principles of justice.

Suggestions can be made, among others are, the holder of industrial design should publish the industrial designs vastly so that many people have the opportunity to see it. Further, for entrepreneurs, the procedures for applying registration must be in line with Article 13, Act number 31 of the year 2000 regarding industrial design.

Keywords: Legal Protection of Industrial Design, Principles of Justice According to John Rawls's Theory of Justice