



Intellectual Property Rights in Franchise Agreements According to Indonesian Positive Law

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Abstract

This research examines the position of Franchise Agreements according to Indonesian Positive Laws and the protection of Intellectual Property Rights in Franchise Agreements in Indonesia. The methodology applied is a normative approach, analyzing the function of franchise agreements within the Indonesian positive legal framework as well as the protection of IPR through contextual and regulatory perspectives (insert approach). The analysis results reveal that based on PP Number 35/2007 concerning Franchising, franchisees are required to report the franchise agreement to the government after signing. Comprehensive legal protection for IPR in the franchise system is regulated by various legal instruments, including the Trade Secrets Law, Copyright Law, Patent Law and Trademark Law.

I. Introduction

Information and technology are experiencing rapid modernization throughout the world, which has an impact on increasing growth and development of the Indonesian economy. Many new businesses and business practices, whether with small, medium or large capital, have emerged as a result of this development. These companies not only boost the country's economy, but also provide various types and quantities of needs demanded by the increasing diversity of society.¹

Indonesia faces intense competition on the global stage as a result of developing business practices and advances in science and technology. Modernization, in general, is a process that increases interdependence and interaction across countries in various fields, such as politics, technology, the environment, economics and culture.²

¹ Kurniawan, I. Peran Perusahaan dalam Meningkatkan Ekonomi Negara dan Kebutuhan Masyarakat. Jurnal Ekonomi dan Bisnis 45, no. 2 (2020): 101-115.

² Giddens, A., Duneier, M., Appelbaum, R. P., & Carr, D. Introduction to Sociology. 10th ed. W.W. Norton & Company. (2017).

Each country seeks to increase its power, especially through trade and product marketing. Therefore, foreign goods often outperform domestic products. The prudence and good faith of business actors, as determined by their business ethics, have a significant impact on the macro and micro functions of business law in practice. "Especially in traditional business transactions, national companies and international companies, the interests of private companies, governments and international business institutions are closely related to the legal framework that regulates business in Indonesia."

As a legal entity country, Indonesia unites its people to face international competition.³ Economic actors, government and society must work together to restore the meaning of mutual support in the face of market competition. Therefore, building partnership support is very important. There are several support components, namely:

- a The business world is not only oriented towards making profits
- b The effectiveness and efficiency of government bureaucratic services is very important in shaping economic policy, especially for the business sector
- c A correct understanding of the business world is very important for society, so that people realize that not all business activities are unethical
- d Business actors need to realize the need to establish partnerships, where each member contributes according to their field of expertise.

Laws that protect business actors and knowledge of what is required for business actors to behave fairly and not deceive third parties are necessary to foster healthy competition. As already mentioned, the Indonesian business sector is developing very quickly. Many companies have emerged as a result of establishing partnerships or opening new markets, which have not only increased financial returns but also reduced poverty and created jobs.

Furthermore, in the contemporary era of modernization, science, technology and various innovations used in the business sector are very attractive, especially for consumers. However, the business sector also faces increasingly fierce competition. Keeping this in mind, companies and businesses, regardless of their size, need to prepare to face business competition and explore various ways to survive, including expanding their network of contacts. In particular, implementing a franchise business agreement or (franchise).

The business world continues to evolve, entrepreneurs are constantly looking for new approaches to develop their companies. This is increasingly apparent because business has expanded beyond national borders in terms of time, space and region. Innovation in the business world is franchising or business development through a franchise system. This system is considered helpful and effective for business owners who want to develop their company because it involves collaboration with other parties, not direct investment. Those in the business world can help others manage their companies by offering more sophisticated or creative technological capabilities and knowledge.⁴

³ Hariyani, Rustinah. Tinjauan Yuridis Perjanjian Bisnis Waralaba (*Franchise*) Antara *Franchisor* dan *Franchisee* Dalam Dinamika Perekonomian Di Indonesia. *Journal Of Law (Jurnal Ilmu Hukum)* 6, no. 2 (2021): 3.

⁴ Permadani, C. *Analisis Yuridis Pelaku Usaha Franchise Menurut Hukum Positif Di Indonesia*. Universitas Islam Kalimantan. (2021).

Nowadays, business people talk about the uniformity of licensed intellectual property rights (IPR) and the need to comply with and carry out all established directives, intellectual property (IP) refers to creations of the mind such as inventions, designs, and artistic works, which are protected by law. IP grants exclusive rights to the creators or owners, allowing them to control the use and distribution of their creations, the types of IP are copyright, trademark, patent, trade secret, industrial design. Therefore, franchising was developed as an alternative for business development, especially on an international scale.⁵ Nowadays, franchising can also be used to expand business internationally. Based on the description above, the author discusses about position of franchise business agreement (*franchise*) according to positive law in Indonesia and protection of intellectual property rights in franchise agreements in Indonesia. Thus, researchers are interested in discussions related to the issue of "Juridical Analysis Business Agreements and Intellectual Property Rights in Franchise Agreements According to Indonesian Positive Law".

2. Research Methodology

In writing research entitled "Intellectual Property Rights in Franchise Agreements According to Indonesian Positive Law", a normative research approach is applied, focusing on the discussion of the position of agreements in franchise businesses from a positive legal perspective in Indonesia, as well as the protection of Intellectual Property Rights (IPR) in franchise agreements. This type of research examines the existing legal norms, rules, and regulations, analyzing their application in the context of franchise agreements and the safeguarding of intellectual property rights. What is meant by the position of business agreements and protection of franchise IPR according to positive law in Indonesia are official documents or regulations issued by the Indonesian government regarding franchise agreements. In addition, the author applies two types of approaches, namely the legal-regulatory approach and the conceptual approach.

Legislation, regulations and official documents that are relevant to the legal issues being researched as an approach to legislation. The results of this analysis are used to formulate arguments in finding solutions to the problems faced, in particular by inventorying regulations and official documents related to the position of franchise business agreements (*franchise*) as well as protection of IPR in the context of positive law in Indonesia. The contextual approach, which is also known as the conceptual approach, begins by considering existing theories and points of view in legal science, along with relevant concepts and principles. Using this method, books and other literature containing solutions to the problems that have been formulated must be searched for and inventoried.

⁵ *Ibid.*

3. Results and Discussion

3.1 Position of Franchise Business Agreement (Franchise) According to Positive Law in Indonesia

Relevant parties are legally protected from actions that are detrimental to other parties through a franchise agreement. The parties in the franchise system have strong legal support in this agreement to enforce their legal rights. The other party can file a lawsuit against the other party in accordance with the law if the other party violates any of the terms of the agreement. The following are several types of franchise agreements:⁶

1. Distribution Franchises, using the franchisee's brand name or symbol, the franchisee exclusively offers a limited number of products on the market.
2. Product Franchising, in this arrangement the franchisee produces products according to the franchisee's specifications and markets them under the franchisee's trademark.
3. Service Franchising, allows the franchisee to perform services under the franchisee's name, emblem, and sometimes trademark as directed.

Under the theory of legal protection, franchise agreements aim to safeguard parties from actions that could harm one another. This is based on the legal solidarity of all involved parties, rooted in good faith and the mutual fulfillment of obligations.

From a contract law perspective, franchise agreements fall under the doctrine of *freedom of contract*, as enshrined in Article 1338 of the Indonesian Civil Code. This principle affirms that all legally-made agreements are binding upon the parties involved. Although franchise contracts are not explicitly governed under the Civil Code, they are still legally valid, provided they meet the criteria outlined in Article 1320, which includes:

- a. Consent of the parties;
- b. Legal capacity;
- c. A specific subject matter;
- d. A lawful cause.

Parties who feel disadvantaged have legal protection based on this franchise agreement. This is done for each part of the basic legal solidarity to protect valid laws based on the agreed conditions. If any part violates the provisions of the act, the other parts must be enforced by law contrary to the part that violates the act.⁷

The legal law of the franchise contract is franchise and franchising. The term "franchisee" refers to the legal entity that authorizes the licensing of the use of IPR, such as patents, trademarks, trademarks, etc. The term "franquicia" refers to the legal organization that obtains the authorization of the franchisor. This franchise agreement

⁶ Felicia, S. *Perlindungan Hukum Para Pihak Dalam Perjanjian Waralaba (Analisis Kontrak Bisnis Waralaba Lokal "Apotek K-24" Di Semarang)*. Universitas Diponegoro. (2010).

⁷ Claudia, Jean. *Tinjauan Yuridis Perjanjian Waralaba Menurut Hukum Positif di Indonesia*. *Jurnal Law, Development & Justice Review* 6, no. 2 (2023): 99

is for a license, namely permission given to the authorized party in the form of permission to carry out a certain series of activities.

The franchisor is the owner of the operating system and IPR that is part of the franchise model. This includes industrial use, patents, commercial marks, service marks, commercial secrets and logo copyrights. Franchisees who utilize these systems and IPR have an unfair obligation to compensate franchisees with royalties. As a result, businesses that implement a franchise system become separate entities that cannot be integrated with other commercial businesses. This means that the franchisee uses the strategies and guidelines set by the franchisee to manage his or her own company. As a result, giving franchise usually exclusive and often accompanied by Non Competition Clause for franchise until time franchise end.⁸

Basically, even though it is not directly regulated in Civil Law legislation (Civil Code), franchise agreements still have a valid legal basis. Even though it is not explicitly regulated in the Civil Code, franchise agreements still receive legal recognition based on the principle of freedom of contract which is recognized by the Civil Code. Article 1338 emphasizes that agreements made by related parties have binding legal force. The validity of an agreement depends on the fulfillment of all the criteria regulated in Article 1320. Thus, it can be interpreted that contract law in Indonesia is "open", allowing each individual to draft agreements according to their needs.⁹

The Indonesian legal system recognizes and regulates franchise agreements. The principle of "Freedom of Contract" provides the opportunity for parties to design various types of agreements, provided that they do not conflict with statutory regulations, social norms, ethics or the public interest. This principle confirms that the agreement taken has legal force equivalent to the law, as regulated in Article 1338 Paragraph (1) Civil Code. Thus, the franchisor and franchisee are bound by the provisions of the franchise agreement which is the legal basis for their collaboration. Government Regulation Number 35 of 2024 concerning Franchising stipulates that all franchise agreements must be set out in writing and signed by both parties. The formality process of this agreement is very important to ensure the legality and legal force of every commitment and agreement that has been agreed to by the parties.

Apart from that, the franchise agreement needs to contain a number of important provisions, based on those contained in Article 6 of Law Number 35 of 2024. These sections include the names of the parties to the agreement, their names and addresses, and the type of IPR related to franchise. To ensure clarity of identity and defense of the legal rights of each party, this is important. The type of business operations to be carried out, as well as the rights and responsibilities that each party must uphold, must also be specified in the agreement. For example, a franchisor may have an obligation to provide facilities, operational direction, training, and marketing tactics to (franchisee).

⁸ Gunawan, Widjaja. *Lisensi atau Waralaba: Suatu Panduan Praktis (Seri Hukum Bisnis)*. Jakarta: Raja Grafindo Persada. (2002).

⁹ Jamil, S. N. A., Kamil, M. I., & Zain, I. I. Tinjauan Yuridis Perubahan Uang Kembalian Konsumen Ke Dalam Bentuk Sumbangan Oleh Pelaku Usaha (Waralaba Minimarket) Berdasarkan Hukum Positif Di Indonesia. *Unizar Recht Journal (URJ)*. 2, no. 4 (2023): 586-595.

To provide established standards and facilitate smooth business operations, these elements are described in the agreement document.¹⁰

Field of business, terms of agreement, and methods to cover deficiencies are additional important clauses. Explanation of business areas is necessary to avoid unnecessary overlap or competition between peers franchisee. The term of the agreement includes the duration of the contract that has been agreed upon, while the procedures for payment of benefits determine the mechanism and time of payment that must be made. All of these clauses are intended to provide legal and regulatory certainty, along with explicit procedures that must be adhered to in the event of a change in circumstances or differences of opinion between the parties.¹¹

To ensure transparency of information and enable local business actors to utilize franchises in marketing goods and/or services, the government feels it has a responsibility to ensure the validity and legality of franchising businesses, both domestically and abroad. Franchisees are required to report to the authorities immediately after the franchise agreement is signed. Thus, franchise business agreements in Indonesia are currently regulated by Law Number 35 of 2024.¹²

The guidelines contained in Article 4 paragraph (4) of Law Number 35 of 2024 state in essence, franchising is carried out with a written agreement taking into account Indonesian law. Furthermore, paragraph (2) stipulates that agreement if it is written in a foreign language, it must be translated into Indonesian. This regulation allows the establishment of a franchise based on a formal contract between the franchisor and the franchisee. However, the agreement can only be enforced in Indonesia if it is made in that language. Salim HS stated that there are three categories of written agreements:¹³

1. A handwritten agreement signed by the parties concerned.
2. The agreement is approved by a notary confirming the signature of each party.
3. Notarial deed, namely an agreement made before a notary.

The duration allocated to the franchise holder to use the agreed legality is known as the rules in the franchise agreement. The time span usually has an estimated time of between five to ten years, based on the option to extend, based on the results of research conducted in Indonesia. However, in its implementation, the franchisor has the right to terminate the contract early if the franchisee does not fulfill its responsibilities.¹⁴

In addition, Regulation of the Minister of Industry and Trade Number 256/MPP//KEP/7/1997 concerning Provisions and Procedures for Granting Industrial Business Licenses, Expansion Permits and Industrial Registration Certificates, as well as Regulation of the Minister of Trade of the Republic of Indonesia

¹⁰ Hariyani, Rustinah, *op.cit.*

¹¹ Serfiayani, C. Y., Purnomo, R. S. D., & Hariyani, I. *Franchise Top Secret, Ramuan Sukses Bisnis Waralaba Sepanjang Masa*. Yogyakarta: Penerbit Andi. (2024).

¹² Hariyani, Rustinah, *op.cit.*

¹³ H.S, Salim. *Perkembangan Hukum Kontrak di Indonesia*. Jakarta: PT. Sinar Grafika. (2005).

¹⁴ Rooseno, Harjowidigdo. *Perspektif Pengaturan Perjanjian Franchise*, Makalah Pertemuan Ilmiah Tentang Usaha Franchise dalam Menunjang Pembangunan Ekonomi. Jakarta: BPHN. (1993).

Number 71 of 2019 concerning the Implementation of Franchises, provides a comprehensive legal basis for regulating franchise business activities in Indonesia. By complying with the regulations that have been set, it is hoped that all parties involved can run the franchise business in a fair, transparent manner and in accordance with applicable legal provisions.¹⁵

3.2 Protection of Intellectual Property Rights in Franchise Agreements in Indonesia

Intellectual Property (IP) refers to creations of the mind such as inventions, literary and artistic works, designs, symbols, names, and images protected by law. These rights allow creators and businesses to benefit from their innovations and branding. In the context of a franchise agreement, IP plays a central role, as the franchisor grants the franchisee the right to use specific intellectual property in operating the business, usually under established business models and brand identities. In franchise systems, Intellectual Property Rights (IPR) often take the form of trademarks (including service marks and logos), indications of origin, and trade secrets (such as operational procedures, recipes, or business strategies). These assets form the core value of the franchise and must be legally protected to ensure consistency, brand integrity, and competitive advantage. The legality of using two different types of IPR, trade secrets and brands is recognized within the franchise framework. These rights are typically bundled and licensed together in franchise agreements. It is not possible to separate the rights to use and exploit these two categories of IPR, as both are integral to maintaining the standardized operations and brand identity required in franchising. Thus, legal protection and clear contractual terms are essential to ensure the proper use, exclusivity, and enforcement of both trade secrets and brand elements in franchise relationships. If the IPR granted only allow the sale or distribution of goods under a particular brand, without granting permission for additional management or processing that increases the value of the product, then this is more similar to the distribution of ordinary goods.¹⁶

In order for a business to be considered a franchise, the business must have unlimited IPR. Therefore, long-term business continuity is highly dependent on legal protection of IPR stated in the franchise agreement. In accordance with Minister of Trade Regulation Number 71 of 2019, Article 2 paragraph (1) letter f, registration of in IPR with the Ministry of Law and Human Rights is one of the requirements for becoming a franchisee who implements a franchise system. Indonesia recognizes seven types of Intellectual Property, namely copyright, patent, trademark, industrial design, trade secret, layout design of integrated circuits and plant variety protection. In the context of a franchise agreement, the primary types of IPR involved are Trademark and Trade Secret. Trademarks which include service marks, logos, business names, and indications of origin that represent the identity of the franchise. Franchisors license these marks to franchisees to ensure brand consistency across all locations. Trade

¹⁵ Moh Adam Sugiono, Sayyidah Dewi Hasanah, Sumriyah. Analisis Aspek Hukum Perjanjian Waralaba (*Franchise*) Dalam Perspektif Hukum Perdata. *Jurnal Sains Student Research* 1, no. 2 (2023): 1086.

¹⁶ Bonaraja Purba, Hasyim, Aulia Nurfitriana, Sarma Juliana Silaban, Sophia Hanum, Tinti Sriyani. Perlindungan Hukum HaKI Dalam Perjanjian Waralaba. *Jurnal Riset Manajemen dan Ekonomi* 1, no. 3 (2023): 15.

Secrets which this includes confidential business information, such as standard operating procedures, recipes, marketing strategies and training methods. These are critical to maintaining the unique and competitive aspects of the franchise. These two categories trademarks and trade secrets are inseparable in a franchise system because the franchisee's right to operate the business relies heavily on using the established brand and applying the confidential knowledge or business methods provided by the franchisor. Thus, although franchising itself is regulated in a separate legal instrument (e.g., Government Regulation Number 42 of 2007 on Franchising), the legal protection of the IPR components involved is based on Indonesia's IPR laws, especially as updated in Law Number 35 of 2024.

Based on Joint Regulation of the Minister of Trade Number 71 of 2019, franchisors have rights to intellectual property, including company brands and logos, store layout or business location, systems, management, marketing and franchise cooking recipes. The rights and obligations between the parties are as follows:

1. In return for the ongoing training received by the franchisee, the franchisee owes the franchisee a certain amount of money or royalties.
2. While using the franchisee's business assets and IPR, the franchisee is required to respect the IPR confidentiality and code of ethics.

IPR owned by the franchisor enable the franchisee to run its business in accordance with the provisions of the agreement. This element is important for the legal protection of all parties involved. If a violation occurs, legal certainty is confirmed by the provisions of the agreement. Therefore, franchisees must register their intellectual property to ensure legal protection.

Franchise agreements play an important role in protecting individual legal rights, especially regarding IPR. This agreement guarantees that the rights and obligations of each party are carried out correctly, and the party signing the agreement has the right to file legal claims in accordance with regulations if a violation occurs.

The elements of IPR protection are regulated in detail in the franchise agreement. The franchisee must comply with the rules set out in this contract to protect the franchisor's intellectual property. Use of product designs, trademarks and other related elements of intellectual property are among these restrictions. IPR in the franchise industry is also legally protected by applicable laws and regulations, which add to the legal framework that strengthens the parties' agreements. In a franchise agreement, IPR are legally protected, which benefits both the franchisor and the franchisee. Franchisees can operate their companies more safely and utilize intellectual property with this protection, without having to worry about breaking any laws.¹⁷

Compliance with the franchise agreement and regulations related to IPR is an important factor in maintaining good relations between all parties involved. In addition, this helps avoid disputes that may arise due to violations of intellectual property rights, so that the franchise industry can grow in an atmosphere where all parties respect each other's rights and responsibilities. Legal protection will increase if

¹⁷ Kartika, I. M. D. W., & Senastri, N. M. J. Perlindungan Hukum Terhadap Penerima Hak dalam Perjanjian Waralaba di Indonesia. *Jurnal Preferensi Hukum* 2, no. 3 (2021): 459-464.

the franchisee's IPR are specifically regulated in the franchise agreement. Franchisee is required to comply with the restrictions outlined in this agreement to protect the franchisor's intellectual property. These restrictions are intended to ensure that third parties do not misuse or abuse IPR.¹⁸

As part of the franchise agreement that regulates IPR, franchisee is required to protect trade secrets provided by franchisor. These provisions usually include a protection period that lasts at least two years after the franchise agreement ends. Thus, after the franchise period ends, franchisee remains responsible for safeguarding important information received during the contract, so that the risk of leakage and misuse of business information can be minimized.

In addition, the franchise agreement also stipulates obligations for franchisee to protect rights and interests franchisor as brand owner. It means franchisee must ensure that trademarks and other attributes are related to the business identity franchisor used in accordance with established standards. In this way, the reputation and integrity of the brand franchisor can be maintained in the eyes of consumers and the market. Furthermore, during the term of the agreement and for a minimum of two years thereafter, the franchisee is not permitted to run a business that competes directly with the franchisee. This provision aims to prevent conflicts of interest and potential losses for franchisor as a result of unhealthy competition, while providing opportunities for franchisor to maintain its position in the market without interference from the former franchisee.¹⁹

One of the clauses in the Franchise Agreement that regulates the protection of IPR mandates that the franchisee must safeguard the trade secrets provided by the franchisor for a minimum of 2 (two) years after the end of the franchise period. As the owner of brand rights, the rights and interests of the franchisor must be upheld by the franchisee. Furthermore, during the franchise period and for a minimum of 2 (two) years thereafter, the franchisee is not permitted to operate another company that competes directly with the franchisor. Legal protection for (IPR) in franchise businesses includes the Trade Secrets Law, Copyright Law, Patent Law and Trademark Law. These regulations provide appropriate legal guidelines for franchisors and franchisees in running their business. To avoid potential lawsuits in the future, franchisors need to ensure in the franchise agreement that all intellectual property rights used have received adequate legal protection.

1. Law Number 28 of 2014 concerning Copyright

Copyright automatically applies based on declarative principles after the work is realized in physical form, as well as through legal actions regulated by law. Parties who legally receive rights from the creator, as well as third parties who obtain additional rights from that party, are all recognized as copyright holders

¹⁸ Sukarja, D., & Lubis, T. M. Aspek Hukum Perjanjian Waralaba Bisnis Kopi (Studi Bisnis Franchise di Kota Medan). *Neoclassical Legal Review: Journal of Law and Contemporary Issues* 2, no. 1 (2023): 1-9.

¹⁹ Purba, B., Hasyim, H., Nurfitriana, A., Silaban, S. J., Hanum, S., & Sriyani, T. Perlindungan Hukum HAKI Dalam Perjanjian Waralaba. *Jurnal Riset Manajemen Dan Ekonomi (Jrime)* 1, no. 3 (2023): 13-33.

in accordance with Article 1 point 4. Copyright may apply to logos, billboards, and other items depicting the products involved in the franchise agreement. franchisee is responsible for ensuring that all designs, colors, signage and logos are used in accordance with the guidelines established by franchisor. Franchisees can also run marketing and advertising campaigns according to the guidelines and specifications provided by the franchisor. Pamphlets and advertisements are some examples of copyrighted promotional materials for fine arts and cinematography.²⁰

2. Law Number 13 of 2016 concerning Patents

With this right, the creator is free to use the results of his invention for his own purposes or to allow other parties to use them. A patent holder is defined in Article 1 number 6 as a person who is the inventor of a patent, a person who legally obtains additional rights listed in the general register of patents, or a person who receives patent rights directly from the owner. Simple patents and existing patents are two categories of patent protection.

3. Law Number 20 of 2016 concerning Marks and Geographical Indications

Trademarks give the owner the freedom to use them or authorize others to use them, provided that the trademark has been registered for a certain period of time. According to Article 3, rights to a trademark are acquired upon registration; the party who registers the trademark will be granted these rights, and third parties are not permitted to use the trademark without the consent of the right holder.

4. Law Number 30 of 2000 concerning Trade Secrets

Trade secrets are technology or knowledge that is kept secret by its owner, has economic value because of its use in business operations, and is not generally known. Article 1 Number 1 of the Trade Secrets Law contains this definition. Article 2 generally regulates the protection of trade secrets. This article includes details on delivery, production and sales methods in addition to other business and/or technology related knowledge that is little known but has commercial value. The emergence of new discoveries or innovations will be helped by legal protection for trade secrets, which, although kept secret, still receive legal protection regarding ownership, control and use by the inventor.

5. Law Number 31 of 2000 concerning Industrial Design

This law regulates the protection of industrial designs, which refer to the creation of shapes, configurations, or compositions of lines or colors, or a combination thereof, that have an aesthetic appearance and can be applied to

²⁰ Pramita, Anak Agung Ayu Dwi Cahya Pradnya. *Perlindungan Hukum Bagi Franchisor Terhadap Franchisee Yang Melakukan Pelanggaran Hak Merek*. *Jurnal Kertha Negara* 11, no. 9 (2023): 1027.

industrial products. The holder of the industrial design right is granted exclusive rights to use and prohibit others from using the design without permission for a period of 10 years from the filing date.

6. Law Number 32 of 2000 concerning Integrated Circuit Layout Design

This law provides legal protection for the layout design of integrated circuits, which refers to the three dimensional arrangement of elements in an integrated circuit. The law grants the right holder exclusive control to prevent others from commercially producing, importing, or distributing products using the registered layout without consent, for a protection period of 10 years.

7. Law Number 29 of 2000 concerning Plant Variety Protection

This law governs the legal protection of new plant varieties that are distinct, uniform, and stable. It grants exclusive rights to plant breeders or right holders to control the propagation and commercial use of the variety. The protection period is 20 years for seasonal crops and 25 years for perennial crops.

Problems can arise if the franchise agreement is not accompanied by a trade secret protection agreement between the franchisee company and the employees. Given their intimate knowledge of the company's trade secrets, employees as third parties have the potential to copy the franchisor's distinctive features in this scenario, even if the franchisee is not infringing intellectual property rights. To protect a franchisee's trade secrets, it is critical for employers and employees to have a written agreement.

Understanding the basics of franchising is the first step to understanding the law in Indonesia, because this law protects intellectual property rights in franchise agreements and business contract analysis. In a franchise, the franchisor gives permission to the recipient to utilize its intellectual property, such as business systems, trademarks and logos, according to the agreed period and location. Law Number 35 of 2024 regulates franchising in Indonesia, along with implementing regulations such as Minister of Trade Regulation Number 71 of 2019.

A franchise agreement must meet the provisions in Article 1320 of the Civil Code to be considered legally valid, including the competence of the parties, the existence of an agreement, clear objectives and valid reasons. A Franchise Registration Certificate (FRC) as legal proof can only be obtained by registering the franchise agreement with the Ministry of Trade. If it is not registered and does not have an FRC, the agreement is considered void and has no legal effect.

Procedures for resolving disputes arising from the franchise agreement must also be in place. If either party violates the terms of the agreement, such as using intellectual property without permission or not following established operational guidelines, a dispute may result. Depending on the terms of the agreement, disputes may be resolved through litigation, arbitration, mediation, or negotiation. Franchise agreements must include appropriate settlement guidelines to maintain legal certainty and protect the obligations and rights of all parties.

4. Conclusion

This research shows that Indonesia's positive legal system provides a clear framework for regulating franchise agreements and protecting intellectual property rights. Through various regulations, including Government Regulation Number 35 of 2024 and Minister of Trade Regulation Number 71 of 2019, each party to a franchise agreement is required to comply with applicable provisions in order to maintain the validity and legality of the business. Ownership of IPR by the franchisor is an absolute requirement that allows the franchisee to operate in accordance with the agreed terms. Legal protection of IPR is regulated comprehensively through various laws, including the Copyright, Patent, Trademark and Trade Secret Laws.

The importance of registering IPR and reporting franchise agreements to the authorities is emphasized as a preventive measure to avoid potential violations. By following existing legal guidelines, it is hoped that all parties involved in the franchise system can run their business fairly, transparently and in accordance with applicable laws. Thus, a deep understanding of franchise agreements and the protection of IPR is essential for business players to adapt and compete in an increasingly complex and dynamic market.

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- Law Number 13 of 2016 concerning Patents, LN. 2016/No. 176, TLN No. 5922
- Law Number 20 of 2016 concerning Marks and Geographical Indications, LN.2016/No.252, TLN No.5953
- Law Number 28 of 2014 concerning Copyright, LN.2014/No. 266, TLN No. 5599
- Law Number 29 of 2000 concerning Plant Variety Protection, LN. 2000/ No. 241, TLN NO. 4043
- Law Number 30 of 2000 concerning Trade Secrets, LN. 2000/ No. 242, TLN No. 4044
- Law Number 31 of 2000 concerning Industrial Design, LN. 2000/ No. 243, TLN NO. 4045
- Law Number 32 of 2000 concerning Integrated Circuit Layout Design, LN. 2000/ No. 244
- Government Regulation Number 35 of 2024 concerning Franchising, LN 2024 / No. 188, TLN No. 6986
- Regulation of the Minister of Trade of the Republic of Indonesia Number 71 of 2019 concerning the Implementation of Franchises, BN 2019/ No. 1007
- Decree of the Minister of Industry and Trade (Kepmenperindag) of the Republic of Indonesia Number 256/MPP//KEP/7/1997 concerning Provisions and Procedures for Granting Industrial Business Permits, Expansion Permits and Industrial Registration Certificates