

INTISARI

Penelitian ini bertujuan untuk mengungkap tantangan yang dialami oleh perjanjian TRIPs dalam menegakkan hukum hak kekayaan intelektual di era ekonomi digital. Lanskap teknologi, informasi dan komunikasi yang berubah telah menyebabkan perubahan besar mengenai bagaimana kekayaan intelektual dikelola, tak terkecuali mengenai hak kekayaan intelektual (HAKI). Perjanjian TRIPs yang mengatur mengenai penggunaan dan perlindungan HAKI dalam lanskap perdagangan internasional terkena imbas perubahan ini. Pelanggaran HAKI di dalam ranah perdagangan internasional telah menimbulkan pertanyaan mengenai relevansi TRIPs saat ini. Oleh sebab itu, penelitian ini mengangkat pertanyaan penelitian berupa, Bagaimana perubahan yang diperlukan oleh rezim TRIPs agar tetap relevan dengan karakteristik perdagangan internasional berbasis ekonomi digital saat ini?. Penelitian ini berargumen bahwa Perjanjian TRIPs tidak lagi relevan untuk menghadapi perubahan lanskap perdagangan internasional karena ketidakmampuannya menghadapi tekanan-tekanan yang disebabkan oleh fenomena ekonomi digital. Penelitian ini menggunakan kerangka konseptual berupa *International Regimes*, dan *Institutional Dynamics*. Penelitian ini kemudian menyimpulkan bahwa ketidakmampuan TRIPs dalam menghadapi tekanan-tekanan fenomena ekonomi digital menyebabkan TRIPs tidak lagi relevansi. Hal ini disebabkan oleh rezim TRIPs yang tidak memiliki mekanisme manajemen tekanan (*institutional stress management system*). Penelitian ini menyarankan rezim TRIPs untuk mengembangkan mekanisme manajemen tekanan baik itu langkah jangka pendek maupun jangka panjang, yaitu melalui *adaptive learning*, *institutional learning* (jangka pendek), dan *programmed review procedures* (jangka panjang).

Kata Kunci : Rezim, Perdagangan Internasional, IPR, Ekonomi Digital, ICT, Perjanjian TRIPs, HAKI, Keberlanjutan, Tekanan Institusi.

ABSTRACT

This article aims to uncover the challenges that TRIPs agreements have to face to enforce the IPR law in the digital economy era. The progress of ICT (Information and Communication Technology) has caused a fundamental change in how to manage intellectual property, including Intellectual Property Rights (IPR) as an exclusive right. This change is affecting the TRIPs agreement who govern the use and protection of intellectual property rights in the international trade landscape. There have been many IPR violations in the realm of international trade. This raises questions about the current relevance of TRIPs. Therefore, this study raises research questions in the form of, how a change in the TRIPs regime is necessary to remain relevant to the current characteristics of digital economy-based international trade?. This study argues that the TRIPS agreement is irrelevant in dealing with changes in the international trade landscape due to its inability to deal with pressures caused by digital economic phenomena. Then, to answer the research questions, this study uses conceptual frameworks in the form of the digital economy, TRIPs agreements, international regimes, and institutional dynamics. This research concludes that the reason why the TRIPs regime is unable to maintain its relevance in the international trade landscape is due to the inability of TRIPs to deal with the pressures of digital economic phenomena. This is caused by the TRIPs regime which does not have an institutional stress management system. This study suggests the TRIPs regime develops pressure management mechanisms for both short-term and long-term steps, namely through adaptive learning, institutional learning (short term), and programmed review of procedures (long term).

Keywords : *Regime, International Trade, IPR, Digital Economy, ICT, TRIPs Agreement, HAKI, Sustainability, Institutional Stresses.*