

SETTING NATIONAL EXHAUSTION IN INDONESIAN PATENT LAW: COMPARATIVE ANALYSIS BETWEEN INDONESIA AND EUROPEAN UNION

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ABSTRACT

This research examines the legal framework of the national exhaustion doctrine in Indonesian patent law, compares it with the regional exhaustion regime implemented in the European Union (EU). The exhaustion doctrine, which limits the exclusive rights of a patent holder after the first authorized sale of a product, plays a crucial role in balancing the rights of inventors with public access to patented goods. Indonesia implicitly adheres to the national exhaustion principle through provisions in its Patent Law, which permit patent holders to prohibit unauthorized imports. This approach, while protecting domestic market control and patent holder interests, may lead to limited market access and higher prices for essential goods.

In contrast, the EU's regional exhaustion system promotes the free movement of goods within the European Economic Area (EEA), thereby enhancing market integration and consumer access. This research employs a normative juridical and comparative approach, analyzing statutory frameworks and relevant international agreements, notably the TRIPs Agreement. The study concludes that although national exhaustion aligns with Indonesia's current legal and economic objectives, there is a compelling need for explicit regulation and consideration of alternative exhaustion regimes to improve public welfare and support global trade integration.

Keywords: Patent Law, National Exhaustion, Regional Exhaustion, Intellectual Property Rights, Indonesia, European Union.

***PENETAPAN DOKTRIN EXHAUSTION NASIONAL DALAM HUKUM PATEN
INDONESIA: ANALISIS PERBANDINGAN ANTARA INDONESIA DAN UNI
EROPA***

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INTISARI

Penelitian ini mengkaji kerangka hukum doktrin exhaustion nasional dalam hukum paten Indonesia dengan membandingkannya dengan rezim exhaustion regional yang diterapkan di Uni Eropa (EU). Doktrin exhaustion, yang membatasi hak eksklusif pemegang paten setelah penjualan sah pertama, berperan penting dalam menyeimbangkan hak inventor dan akses publik terhadap barang-barang berpaten. Indonesia secara implisit menganut prinsip exhaustion nasional melalui ketentuan dalam Undang-Undang Paten yang mengizinkan pemegang paten melarang impor tanpa izin. Pendekatan ini, meskipun melindungi kontrol pasar domestik dan kepentingan pemegang paten, dapat menyebabkan terbatasnya akses pasar serta harga yang lebih tinggi untuk barang-barang esensial.

Sebaliknya, sistem exhaustion regional Uni Eropa mendorong pergerakan bebas barang di kawasan European Economic Area (EEA), sehingga meningkatkan integrasi pasar dan akses konsumen. Penelitian ini menggunakan pendekatan yuridis normatif dan komparatif, dengan menganalisis kerangka hukum dan perjanjian internasional yang relevan, terutama TRIPs Agreement. Penelitian menyimpulkan bahwa meskipun exhaustion nasional sesuai dengan tujuan hukum dan ekonomi Indonesia saat ini, terdapat kebutuhan mendesak untuk pengaturan eksplisit dan pertimbangan rezim exhaustion alternatif guna meningkatkan kesejahteraan publik serta mendukung integrasi perdagangan global.

Kata kunci: Hukum Paten, Exhaustion Nasional, Exhaustion Regional, Hak Kekayaan Intelektual, Indonesia, Uni Eropa.