

LEGAL IMPLEMENTATION OF CENTRAL ATTACK IN MADRID PROTOCOL TOWARDS INTERNATIONAL REGISTRATION OF MARKS IN INDONESIA

By:

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ABSTRACT

The international registration of marks using national line that is no longer seen effective has brought Indonesia to open the new line of international registration of marks through Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“**Madrid Protocol**”) as regulated in the Law No. 20 of 2016 on Trademarks and Geographical Indications (“**Trademarks and Geographical Indications Law**”). However, the Madrid Protocol adopts a dependency system towards basic mark in home country that can lead to Central Attack, which is vulnerable to the marks holder. Therefore, the author intends to analyze the cause of Central Attack in Indonesia, the measure that can be executed by the marks holder affected from Central Attack, and the impact of Central Attack towards Trademarks and Geographical Indications Law.

This legal research is a normative-empirical legal research where the analysis relies on secondary data and supported by primary data. The normative sources are used to analyze the regulation regarding Central Attack in Madrid Protocol, meanwhile the empirical source is used to support such analysis.

The author finds that rejection, deletion, cancellation and expiration of marks can lead to Central Attack. The marks holder is given a solution in form of transformation of marks regulated in Madrid Protocol if affected from Central Attack. The impact towards Trademarks and Geographical Indications Law is to regulate the Central Attack within the governing regulation that can provide more legal certainty for the marks holder in Indonesia.

Keywords: Central Attack, Madrid Protocol, Trademarks and Geographical Indications Law.

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**IMPLEMENTASI HUKUM CENTRAL ATTACK DALAM PROTOKOL
MADRID TERHADAP PENDAFTARAN MEREK
INTERNASIONAL DI INDONESIA**

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INTISARI

*Pendaftaran merek internasional melalui jalur nasional yang dirasa tidak lagi efektif telah membawa Indonesia untuk membuka jalur pendaftaran merek internasional yang baru melalui Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“**Protokol Madrid**”) sebagaimana diatur dalam Undang-Undang No. 20 Tahun 2016 tentang Merek dan Indikasi Geografis (“**UU Merek dan Indikasi Geografis**”). Namun, Protokol Madrid menganut sistem ketergantungan terhadap merek dasar di dalam negeri yang dapat memicu terjadinya serangan pusat atau Central Attack yang beresiko bagi pemegang merek. Dengan demikian, penulis menganalisis penyebab terjadinya Central Attack di Indonesia, solusi bagi pemegang merek yang terkena Central Attack, serta dampak Central Attack terhadap UU Merek dan Indikasi Geografis.*

Penelitian hukum ini merupakan penelitian hukum normatif-empiris yang analisisnya sangat bergantung kepada data sekunder dengan didukung oleh data primer. Sumber normatif digunakan untuk menganalisis peraturan mengenai Central Attack yang diatur di dalam Protokol Madrid, sementara sumber empiris digunakan untuk mendukung analisis tersebut.

Penulis menemukan bahwa penolakan, penghapusan, pembatalan, dan berakhirnya waktu perlindungan merek dapat mengakibatkan terjadinya Central Attack di Indonesia. Pemegang merek diberikan solusi berupa transformasi merek yang diatur di Protokol Madrid jika terkena Central Attack. Dampak bagi UU Merek dan Indikasi Geografis adalah diaturnya Central Attack dalam peraturan pelaksana yang akan memberikan kepastian hukum bagi pemegang merek di Indonesia.

Kata Kunci: Central Attack, Protokol Madrid, UU Merek dan Indikasi Geografis.

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