

PLUSES AND MINUSES FOR INDONESIA IN DECIDING WHETHER TO RATIFY THE MADRID PROTOCOL CONCERNING THE INTERNATIONAL REGISTRATION OF TRADE MARK

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Abstract

This research examines the issues related to the ratify the Madrid Protocol concerning the International registration of trade mark. This research will examines how the impact of ratification of Madrid System would not only for Indonesian IP consultants, but also the income of the state would be lost if Indonesia joint with the Madrid System. The phenomenon above has risen some questions as to whether the system of international registration marks should be adopted by Indonesia or not. This paper tries to analyze and identify the inter national registration system based on Madrid Agreement and the Protocol, including their problems related to their implementation in Indonesia. The methodology is normative juridical of which the result of this research are the problem is not regulated whilst there are some cases reported. The result showed that ratifying international trademark registration Madrid Protocol has advantages and disadvantages for Indonesia. Based on the above discussion, basically Madrid Protocol to increase the competitiveness of the nation but need careful preparation for the run. Necessary steps to be prepared by a mature Indonesian government before joining the Madrid Protocol.

Keywords: *madrid protocol, trade mark, ratification*

Abstrak

Penelitian ini meneliti masalah-masalah yang berkaitan dengan ratifikasi Protokol Madrid mengenai pendaftaran merek dagang Internasional. Penelitian ini akan mengkaji bagaimana dampak ratifikasi Sistem Madrid tidak hanya untuk konsultan IP Indonesia, tetapi juga pendapatan negara akan hilang jika Indonesia bergabung dengan Sistem Madrid. Fenomena di atas telah menimbulkan beberapa pertanyaan, apakah sistem tanda pendaftaran internasional harus diadopsi oleh Indonesia atau tidak. Makalah ini mencoba menganalisis dan mengidentifikasi sistem registrasi antar nasional berdasarkan Perjanjian Madrid dan Protokol, termasuk masalah mereka terkait dengan implementasinya di Indonesia. Metodologi ini adalah yuridis normatif dimana hasil penelitian ini adalah masalahnya tidak diatur sementara ada beberapa kasus yang dilaporkan. Hasil penelitian menunjukkan bahwa meratifikasi pendaftaran merek internasional Protokol Madrid memiliki kelebihan dan kekurangan untuk Indonesia. Berdasarkan pembahasan di atas, pada dasarnya Protokol Madrid untuk meningkatkan daya saing bangsa tetapi perlu persiapan yang matang untuk menjalankannya. Langkah-langkah yang perlu disiapkan oleh pemerintah Indonesia yang matang sebelum bergabung dengan Protokol Madrid.

Kata kunci: *protokol madrid, merek dagang, ratifikas*

Introduction

Intellectual Property Rights (IPR) is a property that is within the scope of technology, science, art or literature. (Djumhana, 2003). Ownership is not the goods but the result of human intellectual abilities, such as an idea. At first the creativity of humans or human creativity as well as a form of business or

results of creative human or human effort distributed or transmitted to others simply as a way of worship so that everyone can use or wear it even marketed production results using the findings granted.

But in the development of intellectual property, if the work of human creativity is the result of intellectual work is being caused by

business activities or objects, seen from a sense of justice and respect for the creative works of human invention, it is less in place. This is understandable because for intellectual work is the inventor or creator have sacrificed their time, energy and thoughts, and do not cost a comparatively few in number. Therefore, in the development of a perceived need for legal protection of the intellectual works.

There are two main of economic objectives of Intellectual Property protection system. The first is to promote investments in knowledge creation and business innovation by establishing exclusive rights to use and sell newly developed technologies, goods, and services (Maskus, 2000). The second goal is to promote widespread dissemination of new knowledge by encouraging rights holders to place their inventions and ideas on the market (Maskus, 2000).

In particular, IPR related to mark system can contribute to the economic development of developing countries in the following way. Improvement of the market position of domestic enterprises all the way through protection of their market: (WIPO, 1988).

1. Improvement of the export possibilities of domestic enterprise through international protection of their marks; the investment for international protection are worthwhile if the mark has gained -or is going to gain- a reputation on the basis of its domestic protection;
2. Improvement of the market situation in favor of the consumer through product identification and possibility of information on the identity of enterprises offering goods and services;
3. Improvement to the attractiveness of the country in international trade by means of an efficient and balanced system of marks; such attractiveness creates competition on the domestic market between importers from various countries and thus improves the position of the consumer.

Protection of intellectual property based on the grounds that, although very abstract, intellectual property is considered to have commercial value or economic value. This is because the intellectual property refers to engineering, technology or products found by a particular individual or company, and the right

refers to the recognition that inventors should be rewarded, such as the exclusive right to use, or to draw royalties by renting its use. IPR protection granted by patent, copyright, or trademark, the owner or inventors.

Purpose of legal protection of IPR is intended to provide legal clarity on the relationship between the creation / invention is the result of human intellectual work with the author / inventor or the holder of the rights to the users who use the results of intellectual work. Lack of clarity on ownership of IP law is a legal recognition and reward given to a person for the effort and the work of creative people who have created or found.

Given the effort to get the work requires intellectual capital in the form of cost, time, energy and thoughts, then this is the right material Intellectual Property that is immaterial or intangible. Today the business assets and intellectual property rights is an integral part of business processes as well as a business strategy in order to successful business or trade in the world.

On the other hand the business activities business term itself is sometimes equated with trade. Legally known in the trade legislation is the activity of selling goods or services that are performed on a continuous basis with the purpose of transfer of goods or services with a reward (Decree of the Minister of Trade, 1984).

IPR protection goals as outlined in advance is to give legal clarity between intellectual property rights which are material to the creator or inventor or holder of the rights to the users who use it. In order for legal protection exists, then set the terms of laws pertaining to Intellectual Property Rights.

IPR protection is an important issue at the international level and is regarded as a tool to enhance creativity and creation. Since it was established WIPO (World Intellectual Property Organization) to negotiate an agreement on the protection of intellectual property. Given the IPR is a business asset that is an integral part of a global center of business strategy today, then discuss intellectual property rights can no longer be separated with the approval of the establishment of the WTO in which TRIPS or Trade Related Intellectual Property aspect of Including Trade in counterfeit goods is one of the results of the agreement Uruguay round or

the Uruguay round pata held in 1994 in Marrakech, Morocco.

The Government of Indonesia has ratified the results of the Uruguay Round into Law No. 7 Year 1994 on Ratification of the Agreement Establishing the World Trade Organization or the World Trade Organization in which the IC attachment organization Establishment Agreement contains provisions governing IPR.

In order to provide legal protection of intellectual work in Indonesia as well as to conform with Law No. 7 of 1994, the Government of Indonesia has enacted several laws pertaining to intellectual property rights, namely:

1. Law Number 12 of 1997 on the Amendment to Law No. 7 of 1987 About Copyright;
2. Law No. 13 of 1997 on the Amendment to Law Number 6 Year 1987 About Patents;
3. Law No. 14 of 1997 on the Amendment aatas Act No. 19 of 1992 About Brand.

Concurrent with the issuance of laws relating to intellectual property rights in line with TRIPs, the Government of the Republic of Indonesia has also ratified international agreements on intellectual property rights, namely:

1. Presidential Decree No. 15 Year 1997 on Ratification of the Paris Convention for the Protection of Industrial Property and Convention Establishing the World Intellectual Property Organization;
2. Presidential Decree No. 16 Year 1997 on Ratification of the Patent Cooperation Treaty and Regulations under the PCT;
3. Presidential Decree No. 17 Year 1997 on Pengesahaan The Trade Marks Law Treaty;
4. Presidential Decree No. 18 Year 1997 on Pengesahaan Berne Convention for the Protection of Literary and Artistic Works;
5. Presidential Decree No. 19 Year 1997 on Ratification of the WIPO Copyrights Treaty.

With the ratification of various international intellectual property treaties indirectly impact for Indonesia. Associated with the brand, the legal protection of the brand using the principle of "first to file" (the first time through the mechanism of registration registrations per country or internationally. Along with the development of international trade, the need to protect the

brand internationally is also getting stronger. Provisions trademark registration by country it is less efficient, because the brand owner must register the brand in each country where the brand is going to be traded. therefore the international trademark registration is important because it facilitates the brand owner of a country to obtain the protection of the brand in other countries through the registration of the trademark in designated secretariat, which automatically means enrollment in all countries who are members of the system.

The mechanism of the international trademark registration which is set in two international treaties, namely the Madrid Agreement Concerning the International Registration of Marks, signed in 1881 and entered into force in 1892, as well as well as the Protocol Relating to the Madrid Agreement 1989 (Madrid Protocol), which entered into force effective date of January 1, 1995 and began operation on 1 April 1996. Both international treaty known as the Madrid System, which provide trademark registration, maintenance of brand and brand arrangements are centralized through the International Bureau (IB) at the World Intellectual Property Organisation (WIPO).

Madrid Protocol is a supplementary agreement to reduce weaknesses Madrid Agreement by introducing new innovations in the international trademark registration system so that the Madrid System is growing and more and more countries that join it. Until recently listed 81 countries that joined the Madrid System, 8 countries of which only a member of Madrid, 6 countries just a member of Madrid Protocol, and 47 countries became members of both (Madrid Agreement and Madrid Protocol) Agreement (Goddard, 2012).

The two system of international registration of mark is become a unification system. The system guaranties marks from all parties that have ratified the Madrid convention. The international trend to use the international registration mark system in WIPO significantly shows the increase of numbers.

The protection of Madrid system for a useful protection feature may generally be extended to additional jurisdictions at any time which subsequently join the Madrid system. It

is significant because it provides an easy way for companies to obtain international trademark protection, and important consideration in a global economy, companies can increasingly offer their brand products and services overseas. With the growth of electronic commerce, even small companies that do business over the internet may have global reach and need international protection (Lawyer, 2003).

Until now, Indonesia has not ratified the Madrid Protocol on the grounds that Indonesia is still in order to study in depth the advantages and disadvantages when entering Madrid Madrid Protocol System through ratification. But Indonesia as countries involved in world trade began to consider ratifying the Madrid Protocol. This is evident in the widespread discussion of the Madrid Protocol through seminars or discussion conducted at the Directorate of Intellectual Property Rights itself. Discussions proved serious enough to fruition, namely preparing Trademark Law Revision to accommodate if Indonesia ratify the Protocol.

In the Trademark Act amendment, which is being addressed by the current government has put question mark registration internationally through the Madrid Protocol. That is, joining Indonesia to Madrid Protocol is a matter of time, if there is discussion to review the pros and cons ratified the convention, it will not be a stumbling block, the delay is only a few moments.

The Government of Indonesia plans to ratify Madrid Protocol, in one side, has reaped some pros and cons. These critiques have been flourished in the society since the worried of negative impact upon Madrid Protocol ratification. The expectation is that the government will be able to take a wise policy either to ratify or not to ratify Madrid Protocol. There are various interest of nation should be taken into account upon all different vested in order to have maximum gain of ratification for the benefit of Indonesia nation in the future. The Ratification must guarantee local businessmen in case of trade mark legal protection toward global market.

In the other hand, foreign and domestic trade mark owner have expectation toward the government such as availability of software and

hardware infrastructure in line with human resources readiness to handling a new system of international mark registration based on Madrid Protocol. In addition to the system, there is one stop registering by which mark registration in any member country will require to submit its application in a certain language, will inspect and will give a notification just all at once. Yet, if a legal infrastructure and its technical arrangement at a lower level have not been prepared proportionally, there will many possibilities to facing with serious problems of business law in the day to come.

Furthermore, Indonesian Intellectual Property (IP) Academy has developed special consultant in intellectual property rights to serve registration system for domestic and foreign mark. The development of Indonesian IP consultant is governed under Government Regulation Number 2 of 2005 and Presidential Regulation Number 84 of 2006 about the legality of IP consultant. The ratification of international mark system may risk the existence of consultant groups, especially th at regarding the services for foreign registration mark in Indonesia. This is because the owner of foreign mark should be represented by the Indonesian consultant in application processes.

In addition, during this plan Indonesia's entry into Madrid Protocol member of the pros and cons especially among the Intellectual Property consultant, this is because of the concerns of the Intellectual Property consultants argue that Indonesia's entry into the Madrid Protocol will result in the loss of client consultants Intellectual Property of the applicant foreign brands.

The impact of ratification of Madrid System would not only for Indonesian IP consultants, but also the income of the state would be lost if Indonesia joint with the Madrid System. The phenomenon above has risen some questions as to whether the system of international registration marks should be adopted by Indonesia or not. This paper tries to analyze and identify the inter national registration system based on Madrid Agreement and the Protocol, including their problems related to their implementation in Indonesia.

Method

The method of research used in this study is normative juridical, namely legal research conducted by examining the literature (Soerdjono Soekamto and Sri Mamudji, 1985). This method is used considering the problems studied revolve around the relationship of legislation to each other and equipped with legal theories. Approach method used in this research is method of approach of Act (statute approach). The law approach is carried out by reviewing all laws and regulations relating to the legal issues being addressed (Marzuki, 2006). Data collection techniques in this study is through literature study to obtain secondary data in the form of laws, decisions, and other legal materials and tertiary data by conducting research. Field data collection is used only to complement this normative study.

The method of study approach by collecting legal materials in library document. Accordingly, in understanding the Madrid Agreement and the Protocol, international convention related to the the international registration of mark. In adding to that, text books, articles, law journals, and other documents refer to the object of the study are added to the method. The library research related with the possibilities of ratification of Madrid Agreement and the Protocol by Indonesia, and the implication of ratification of Madrid Agreement and the Protocol to Indonesia.

Theoretical Framework

Madrid System.

The Madrid system (officially the Madrid system for the international registration of marks) is the primary international system for facilitating the registration of trademarks in multiple jurisdictions around the world, its legal basis is the multilateral treaty Madrid Agreement Concerning the International Registration of Marks of 1891, as well as the Protocol Relating to the Madrid Agreement (1989).

The Madrid system provides a centrally administered system of obtaining a bundle of trademark registrations in separate jurisdictions. Registration through the Madrid system does not create an 'international' registration, rather, it creates a bundle of

national rights able to be administered centrally. Madrid provides a mechanism for obtaining trademark protection in many countries around the world which is more effective than seeking protection separately in each individual country or jurisdiction of interest. (WIPO, 2013)

Madrid now permits the filing, registration and maintenance of trade mark rights in more than one jurisdiction, provided that the target jurisdiction is a party to the system. The Madrid system comprises two treaties, the Madrid system for the international registration of marks (the Madrid system) established in 1891 functions under the Madrid Agreement (1891), and the Madrid Protocol (1989).[20] It is administered by the International Bureau of WIPO located in Geneva, Switzerland (WIPO, 2013).

The basic principle of the Madrid System, both Madrid Protocol and Madrid Agreement is "Easier, Simple and Faster". Currently the member states Madrid System can be divided into 3 groups:

1. Madrid Agreement member countries;
2. Madrid Protocol member countries;
3. Member states Madrid Agreement and Madrid Protocol

Benefits Join the Madrid System, the main advantages of using Madrid system is that the brand owner can register the brand in all the country that is a member of the Madrid system by doing: (KADIN, 2008).

1. single international registration;
2. enrollment in one language;
3. meet a number of costs and time limits specified.

After that, the international registration can be held and renewed through a single procedure.

Madrid Agreement

Madrid Agreement, signed on 14 April 1891 has been revised six times from 1900 to 1967 to increase the number of member states. Under this Agreement the International Application can only be based on a national brand that has been registered.

To be able to submit an application for international brands through the Madrid Agreement, an applicant must first have the registration of the same mark in the country of

origin. Trademark registration in the country of origin serves as a "basic registration" for filing an international trademark registration. Description of the type of goods or services available on such international application for trademark registration can not be wider than the description of goods and or services for trademark registration in the country is used as a basic registration.

Application for international trademark registration must be presented in French and should be addressed to the member states of participants Madrid Agreement suit brand is the applicant in order to receive protection. Madrid Agreement provides that all forms of communication between member states with the trademark office of the International Bureau (WIPO) conducted in French. To requests for international trademark registration, WIPO will conduct an examination of the formality of the request and completeness requirements. If all requirements have been declared complete, WIPO will record as an international trademark registration and sending international registration certificate to the applicant. Furthermore, WIPO will make an announcement on the international registration in the official news WIPO (WIPO Gazette).

With the international trademark registration, WIPO member states will notify the Madrid Agreement that the application for registration of international brands have been devoted to the country. After receiving notification from WIPO, designated countries would process terseut international trademark registration in accordance with the applicable national law.

Designated countries have a limit of a maximum of 12 months from the date of notification of WIPO to give a decision and notify the trademark registration application WIPO is devoted to his country internationally accepted/granted or denied. If within 12 months of the destination country does not notify the results to the WIPO, the international registration application addressed to the state shall be deemed to be received/granted. Against the international trademark registration has been granted by the destination country, the international trademark registration to obtain treatment and equal legal protection as a national trademark registration

in the country.

Based on the Madrid Agreement, the existence of an international trademark registration was suspended from the existence of a national trademark registration basis (basic registration) in the country of origin is canceled or eliminated, then all the international trademark registration which is based on the basic registration also automatically take off. Such a system is often referred to as the Central Attack. However, if the first 5-year period where the international trademark registration has passed, the international trademark registration to be independent in the sense of no longer hung on the existence of basic registration.

Protocol Madrid (The Protocol Relating to the Madrid Agreement)

Departure from Madrid Agreement Madrid Protocol is then made. Protocol is effective from 1 April 1996 with the introduction of innovations in the system of Madrid with the aim to expand the geographic scope of trademark registration or to harmonize trademark registration system.

In concept Madrid Protocol is the same as the Madrid Agreement is an international trademark registration system. The main objective is the formation of Madrid Protocol to Madrid Agreement tune the system so that it becomes more attractive for countries that are not yet members.

Some of the improvements contained in the Madrid Protocol Agreement include, among other things:

1. Provisions regarding trademark registration as a basis for registration of international brands;
At the Madrid Protocol basic application or basic registration is allowed as a basis for filing an application for registration of international brands, while the Madrid Agreement only basic registration can be used as the basis for the filing of an international application for trademark registration.
2. Provisions on international brand registration fee;
Provisions on international brand registration fee for countries designated (Complementary Fee) under Madrid

Agreement magnitude has been determined in a uniform manner, while according to the Madrid Protocol, in addition to the basic fee amount determined by WIPO, each member state may determine its own size fee petition addressed to the country (individual fee) provided shall not exceed the cost of the application for registration of national brands prevailing in the country.

3. Provisions regarding the choice of language; Madrid Protocol provides an opportunity for member states to choose the language used in the application for registration of international brands namely English, French or Spanish.

4. The provisions regarding the settlement deadline for registration of international brands for the countries in question.

In case the examination time limit, the Madrid Protocol Parties may choose whether 12 months or 18 months. The time period can be extended still further in the case of opposition to the application for international trademark registration, while according to the Madrid Agreement, the examination process is limited only 12 months and can not be extended again.

Discussion

Answering a question on the identification of problems that have been outlined above, namely "What are the pluses and minuses for Indonesia in deciding whether to ratify the Madrid Protocol concerning the international registration of trade mark?", Needs to be analyzed first considerations for the ratification of the Madrid Protocol notice states the reasons against Madrid Protocol and the states which have ratified the Madrid Protocol.

Before conducting the ratification of the Protocol, the Government of Indonesia's good research on the pros and cons of this protocol ratified by looking at other countries that have or have not ratified this Protocol. As adopted by Malaysia, which until now is still in 'wait and see'. As said by Malaysia in 2004 APAA meeting:[23]

"Malaysia is not a member of the Madrid Protocol and does not have any plans to adopt the Madrid Protocol in the near future. Local companies will not able to file a US trademark application

through the Madrid Protocol unless they can establish that they have a real and effective industrial or commercial establishment or are domiciled or are a national of any of the member countries. In any event, we do not foresee any significant changes following the US accession to the Madrid Protocol as the US is not a major country where products of Malaysian origin and bearing Malaysian owners' trade marks are exported. Receiving new cases from US clients or trade marks agents will not be available to Malaysian trade mark agents via the Madrid International Filing system as Malaysia is not a member of the Protocol."

Also in Pakistan where IPR practitioners dare oppose ratification the Madrid Protocol:

"...Government of Pakistan has still not decided signing the said Protocol, as there is certain kind of pressure domestically as the practitioners community firmly believes that this would greatly effect the economic and revenue activities of the local attorneys..."

See New Zealand:

"...The ministry of Economic Development is conducting preliminary research into the benefits of New Zealand acceding to the Protocol."

Meanwhile, some countries that have ratified the Madrid Protocol also his opinion. Harmonized system of trademark registration and thus has the effect of impact on the member countries, as illustrated below:

1. Japan.

"Japan became a member of the Madrid Protocol on March 14, 2000. Since then, the number of receiving trademark application through the national route from other Madrid Protocol member countries has drastically decreased."

2. Amerika

"The same phenomena will occur regarding the number of receiving trademark applications through the national route from the United States when the Protocol has been implemented there."

3. Korea

"The domestic applicants in Korea had filed about 58% of foreign trademark applications in the member countries of Madrid Protocol and about 15% of foreign trademark applications in the US. The foreign applicants in member countries of Madrid Protocol had filed about 58% of trademark

application from all foreign countries in Korea and the US applicants filed about 32% of them. Therefore, after Korea's accession to the Madrid Protocol a large number of applications from both of domestic and foreign sides were expected to be considerably decreased. However, approximately only 10% has decreased until now. Nevertheless, after November 2, 2003, we expect a greater applications decrease.

Based on the above considerations, pluses and minuses for Indonesia in deciding whether to ratify the Madrid Protocol concerning the international registration of trade mark:

Pluses for Indonesia in deciding whether to ratify the Madrid Protocol concerning the international registration of trade mark:

1. Legal Aspects:

Indonesia's exports will gain legal protection of the brand in export destination countries;

2. Economic Aspects:

- a. Improving the investment climate by stimulating the investment of foreign famous brands produce their products in Indonesia;
- b. With the ratification of the Madrid Protocol international trademark registration would be more efficient.

With the ratification of the Madrid Protocol, Indonesia industry does not need to go abroad to register the product IPR. Industry simply register in the country regarding the information systems based on information technology. This convenience will make the applicant can save costs. However it should be realized despite international brand registration fee be cheaper but the 'brand' is a small charge when seen from orbit into the scope for international markets. There is still the cost of exporting goods to foreign countries should be considered, the cost of marketing / point of sale, promotional costs, etc..

Other charges is certainly very great to keep the mark registered in other countries is still relatively brand used.

- a. Through a system of international trademark registration Madrid Protocol is to encourage national brands Indonesia

become a "global brand" and be able to compete with foreign brands.

- b. Stimulate creativity of the people of Indonesia to continue to work by creating domestic product highly competitive in domestic and international markets;
 - c. Avoid registration in other countries. Madrid System adheres to the principle of "first to file" so that if a longer delay participation in the system is potentially lost opportunity as the first registrant as possible has been registered by the owner of brands from other countries.
3. Increasing state revenues through "individual fee".

With individual fee around U \$ 55 per registration, Indonesia has the potential to get quite large acceptance in the eyes of Indonesia International market potential.

4. Political Aspect.

The main consideration is the study of the political aspects of state sovereignty associated with the state's role in international relations in the field of international trade, among others:

- a. Enhance the credibility of Indonesia as a nation that respects the Intellectual Property especially brand;
- b. Increasing international credibility in the eyes of Indonesia as a country that supports the creation of globalization.

5. Social and Cultural Rights Aspect.

- a. Improving the creativity of the community in the work;
- b. Changing the mind set of society and stressed the importance of IPR protection in particular brands.

Minuses Indonesia in deciding whether to ratify the Madrid Protocol concerning the international registration of trade mark:

1. Economics Aspect

- a. Madrid Protocol has a dependency on the principle of registration in the country of origin.

For the first 5 years following the effective date of the international registration, validity and scope of registration in other countries will depend on the fate of the application or registration in the State of origin. For example, there are restrictions, the final

rejection or abandonment in the country of origin, or cancellation, revocation of the country of origin within a period of 5 years, it will have the same effect on the international registration and the registration of member countries in the Madrid Protocol. Included also for the abandonment, cancellation or something on a national registry that occurred after the past 5 years in which the process occurs over a period of 5 years.

The concept of dependency is often a central attack (which arise from the role of a third party). New registration free of this curse if it has been through a period of 5 years. However diberikn opportunity for transformation which is allowed to transform an international registration into individual petition must be filed within a period of 3 months from the cancellation of the international registration. Of course, with this system it will be detrimental reliance brand owners if a trademark registration in the State of origin have problems because the impact on other countries.

b. Losses for IPR Consultant

With the ratification of the Madrid Protocol, then surely the article states that all applications must go through the IPR IPR Consultant will be overridden. So through the Madrid Protocol registration can be made directly to the Office of the Brand through IB. Surely IPR Consultant will lose significant revenue through registration given country which has ratified the Madrid Protocol has been quite a lot of more than 80 countries. Including the loss of revenue from service renewal. If it is said that IPR Consultant will get increases through litigation can not be proven true given the rejection of the brand so far not too much compared to the incoming applications as described in the statistical data, 2001, 2002, 2003 where the total resistance is equal to 10% of the application for registration brand entry.

c. Losses for Trademark Office

TMO did not experience a loss unless the trademark registration numbers to be down. Because if the

application number, the cost is not much greater than the national application through. To be sure the brand office work becomes so much more because they have direct correspondence and responds more quickly to the IB

d. Losses for the Government

Obviously with less income on IPR Consultant will have an impact on government tax revenue.

e. Lack of brand to go international implications of Indonesia Indonesia only as a market state.

Indonesia is currently the number of brands that can compete internationally yet significant. Statistical data in Indonesia Trademark Registration Office show that the number of foreign brands were registered in Indonesia is much larger when compared to national brands. From the picture it can be predicted that the ratification of the Madrid Protocol to make Indonesia as the designated state, but not necessarily increase the number of brands that are registered Indonesia internationally

f. Human Resources Indonesia is not ready.

Quality of human resources in DG IPR substantive examination has not been a reliable brand so that potential errors are still high which affects the inaccuracy in the inspection and passage of brands that had already been registered by another country.

2. Political Aspect:

- a. Making Indonesia's status as a "priority watch list (PWL)" in brand protection issues;
- b. Reliance on developed countries are likely to lead to foreign intervention.

3. Social and Culture Aspect.

- a. Implementation of Indonesia's participation in the Madrid Protocol will only be realized if the level of public awareness of IPR have been there;
- b. Communal culture can impede law enforcement related IPR issues

Conclusion

As a conclusion of all above discussion, we could summarize this writing into the following conclusion sand recommendations:

Ratifying international trademark registration Madrid Protocol has advantages and disadvantages for Indonesia. Based on the above discussion, basically Madrid Protocol to increase the competitiveness of the nation but need careful preparation for the run. Necessary steps to be prepared by a mature Indonesian government before joining the Madrid Protocol.

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