

## Implementation of Legal Protection in the Field of Pharmacy in a Juridical Review of the Implementation of Law Number 30 of 2000 Concerning Trade Secrets

Yahya Abdul Habib<sup>1</sup>; Nyi Mas Gianti Bingah Erbiana<sup>1</sup>

<sup>1</sup>Fakultas Hukum Universitas Djuanda Bogorr

<sup>1</sup>Email Korespondensi: habibstyle@gmail.com

### ABSTRACT

The protection of trade secrets in the pharmaceutical sector is very important. Various trade secret crimes in the pharmaceutical sector, such as theft of drug prescriptions and counterfeiting of medicines, continue to increase. Another impact of trade secret crimes in the pharmaceutical sector is the medical risk of counterfeiting drugs consumed by the public. However, on the one hand, victims who have trade secret rights in the pharmaceutical sector are still few to report allegations related to trade secret violations. In addition, law enforcement has not been optimal in responding to every complaint from the public regarding the theft of drug prescriptions, counterfeiting of various pharmaceutical products, and complaints from trade secret rights owners. For this reason, the existence of Law Number 30 of 2000 concerning Trade Secrets should provide legal protection for every owner of trade secrets in the pharmaceutical sector and also the public who are victims of trade secret crimes in the pharmaceutical sector.

### Keywords:

Trade Secrets;  
Pharmaceutical  
Field; And Law  
Number 30 Of  
2000  
Concerning  
Trade Secrets

### INTRODUCTION

In the era of globalization, it seems that the world has no borders thanks to the sophistication of technology that allows fast communication between one country and another. This then has implications for the increasingly competitive business world. This competition encourages business actors to develop their business activities in the field of trade. However, it is very unfortunate when developing business activities in the field of trade is inseparable from various forms of fraud, violations, and crimes. Therefore, a form of protection is needed for the existing trading system. One form of protection that can be provided is the protection of Intellectual Property Rights (IPR). For this reason, according to Rothman (2019), *Intellectual Property Rights* (IPR) is part of a legal effort to protect every copyright.

In Indonesia, the protection of Intellectual Property Rights (IPR) was first enshrined in Law Number 6 of 1982 concerning Copyright, then changed to Law Number 7 of 1987 concerning Amendments to Law 6 of 1982 concerning Copyright. Then it was changed back to Law Number 12 of 1987 concerning Amendments to Law Number 6 of 1982 concerning Copyright as amended by Law Number 7 of 1987 concerning Amendments to Law 6 of 1982 concerning Copyright, and then repealed and amended by Law Number 19 of 1982 concerning Copyright, and finally until now is Law Number 28 of 2014 concerning Copyright.

Law Number 28 of 2014 concerning Copyright indicates that legally, Indonesia has recognized, is bound by, and is subject to the provisions of Intellectual Property Rights (IPR) in the *General Agreement on Tariffs and Trade* (GATT). One of the appendices to the GATT Agreement is the Agreement on *Trade-Related Aspects of Intellectual Property Rights* (TRIPs). These TRIPs are then used as an international standard for IPR (Priapantja, 1999: 1-2).

In the field of trade, trade secrets, one of the parts of IPR, are in a very important position. This is because each business actor carrying out the trading

process has their trading strategy. This trade strategy is a specificity or privilege that makes business activities carried out by one business actor different from other business actors. Therefore, other people or business actors should not know this trading strategy. Trade secrets are not new to the business world. Since the beginning of the 19th century, the issue of confidentiality, particularly those relating to corporate secrets, has attracted no less important attention from the Court. One of the most well-known cases decided in the Netherlands is the Cohen vs. Lindenbaum case (Widjaja, 2001: 1).

Trade secrets are company assets that must be maintained at any time indefinitely. If the trade secret has been revealed to other parties, both those with similar and non-similar trades, it will cause losses to the inventor. Trade secrets are not only enshrined in Law Number 28 of 2014 concerning Copyright but specifically have been regulated in Law Number 30 of 2000 concerning Trade Secrets. With Law Number 30 of 2000 concerning Trade Secrets, Indonesia has carried out its obligation to protect *holders of undisclosed information* rights from fraudulent competition practices regulated in the TRIPs. This protection is important because Indonesia, like other countries, is inseparable from similar or even more complex cases.

Trade secrets are generally valuable information that has a commercial value that is maintained and maintained by companies from being known by their competitors (Chisum and Jacobs, 1992: 3-4). According to Sherwood (1997: 280), trade secrets can be related to industrial secrets, trade secrets, and other valuable and confidential information. Trade secrets begin with ideas or thoughts unknown to the public. Developing and using new technologies is an important component of the success of a business. The ability to sustain investment in research and development (R&D) in a business situation depends on the extent of a company's ability to protect its valuable information.

Trade secrets are being protected for economic reasons. For example, the Coca-Cola Company, thanks to strict protection efforts, has been able to protect formula secrets for more than a hundred years, and this shows how long trade secrets can survive when properly guarded. The Coca-Cola Company was built on success related to the secret formula for Coke (Allen, 1994: 161-162).

Unlike patents, copyrights, and trademarks, no formal requirements are required to obtain the right to trade secrets. The owner of a trade secret may prevent unauthorized use or disclosure by a person who obtains the trade secret improperly. Thus, Law No. 30 of 2000 on Trade Secrets is very important to protect ideas with commercial value that provide competitive and economic advantages.

According to Jager (2014), legal regulations regarding trade secrets can promote a healthy climate and strengthen the relationship between the parties in trade transactions with the availability of an honest set of game rules, even without an explicit contract. Furthermore, the Trade Secrets Law also enhances efficiency and productivity by providing a framework that encourages the free flow of information between all parties to a trade transaction.

Therefore, the importance of trade secret protection has increased significantly in the last 20 (twenty) years for many reasons. *First*, the applicability of other forms of IP protection with the emergence of many technologies has created much uncertainty. *Second*, trade secrets have become so important because, in many fields, technology is changing so rapidly that it exceeds existing laws and regulations

to encourage and protect inventions and innovations. Another factor that heightens the importance of trade secrets is the relative ease of creating and supervising trade secret rights. For this reason, Law Number 30 of 2000 concerning Trade Secrets plays an important role for a business in Indonesia that produces innovations that must be kept confidential to recover costs and profits.

In a broader context, the trading basis of entire countries can be affected by how broad the legal system that protects trade secrets, along with other areas of intellectual property, namely patents, trademarks, copyrights, and industrial designs. According to Coleman (1992: 1), the protection of trade secrets can encourage the influx of investment, industrial innovation, and technological advancement and thus have a direct influence on the overall economy of the country. For this reason, the fundamental right created by the Trade Secrets Law is the ownership right of the owner of the trade secret so that it is free from losses or losses that may arise due to the trade secret being taken by misuse, namely in improper ways and without compensation. Trade secrets arise or are born from the nature of the confidentiality of the information, the commercial value of the information, and the efforts to maintain the confidentiality.

The pharmaceutical sector also experiences various trade secret problems in the context of trade secrets. The pharmaceutical field is related to how to make, mix, and formulate drugs, identify, combine, analyze, and standardize or standardize drugs and treatments, including the properties of drugs and their distribution and safe use (Syamsuni, 2006). Pharmacist is a term for a profession in the pharmaceutical sector. As is known, developments in the pharmaceutical sector related to drug products and technological products in recent decades have developed rapidly. However, along with the development of the pharmaceutical field, there are also fraudulent practices in trade secrets. Theft of trade secrets in the pharmaceutical sector, for example, in 2016 exposed the practice of counterfeiting vaccines for infants and children. There are at least 14 hospitals that are victims of the fake vaccine trade located in the Jakarta, Bekasi, and Cikarang areas. The types of vaccines that are counterfeited are *pedicel* and *tripel*. In this fraud case, there are 23 suspects consisting of 6 manufacturers, nine distributors, two bottle collectors, one label printer, two midwives, and three doctors.

In addition to the above case is the case of Niren Patel, a British pharmacist from India. Niren Patel stole prescription drugs from the hospital where he worked and then concocted his drugs and sold them on the street. As a result of his actions, he was sentenced to 12 months in prison by a court in the United Kingdom on June 16, 2017. In addition to the Niren case, we can find other cases in February 2019 where it was revealed that seven suspected sellers of drugs included in the G list (must be sold based on a doctor's prescription) such as *Tramadok*, *Hexymer*, *Trihexyphenidyl*, *Alprazolam*, and *Double LL*, where the suspects sold a mixture of list G drugs learned from his colleagues who had worked in the pharmaceutical field. In the same year, in 2019, there was much confusion about the counterfeiting of generic drugs with the mode of *repackaging* operations carried out by the Pharmaceutical Wholesaler (PBG) PT Jaya Karunia Investindo (JKI). One hundred ninety-seven pharmacies spread across the Greater Jakarta area are victims of perpetrators who use *the repackaging* mode.

Based on various existing cases, for this reason, the implementation of laws and regulations regarding trade secrets in the pharmaceutical sector is important to

protect data on clinical trial results, the confidentiality of prescriptions, and the method of making drugs not only to maintain business secrets or trade secrets of commercial value but also to prevent fraudulent competition and abuse of drugs that are not by medical rules. Law Number 30 of 2000 concerning trade secrets is a positive law of Indonesia that supports the application of ethics in the business sector in a climate of trade competition, especially in the pharmaceutical sector. Because the pharmaceutical industries, which mostly depend on research and development, are most likely to be the target of trade secret theft.

Based on the explanation above, the formulation of the problem in writing this article is: How is the implementation of legal protection in the pharmaceutical sector in the juridical review of the implementation of Law Number 30 of 2000 concerning Trade Secrets?

## METHOD

The type of legal research used is normative legal research. Normative legal research is legal research conducted by researching literature or secondary data (Soekanto and Mamudji, 2006: 13). In this type of legal research, law is often conceptualized as what is written in laws and regulations (*law in book*) or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate. In addition, this study uses a legislative approach, which focuses on Law Number 30 of 2000 concerning Trade Secrets.

Based on the type of legal research used, normative legal research, the research data that is the reference in this study is Secondary Data, namely in the form of Primary Legal Materials and Secondary Legal Materials. Primary legal materials are authoritative legal materials, namely having authority, which includes legislation, official records or minutes in making legislation, and judges' decisions (Marzuki, 2011: 141). Meanwhile, secondary legal materials are sourced from legal and non-legal opinions from literature research results related to information obtained from sources. Using secondary legal materials provides researchers with a "clue" about the direction in which the research is going (Marzuki, 2005: 155). Then, for the data analysis method in this writing, we apply five tasks of dogmatic law or legal science in a narrow sense that focuses on positive law, namely laws and regulations that include description, systematization, analysis, interpretation, and assessment of positive law and evaluation to answer problems.

## RESULTS AND DISCUSSION

### 1. Legal Developments in Trade Secrets

The history of the development of trade secrets in countries adhering to the *common law* system began in the United Kingdom. Cases concerning trade secrets began in England in the 1800s, which provided a useful background for understanding the development of the Trade Secrets Act and some information on the nature and scope of the concept of trade secret law. Most trade secret cases related to the secrecy of prescriptions for medicines anticipated modern trade secret legal doctrines and problems in practice, including the relationship between trade secrets and patents. It is difficult to conceptualize the definition of a trade secret as property and the freedom of competition - the relationship regarding trade secrets. Britain, which did not have laws and regulations applied to trade secrets, began to consider the



protection of trade secrets in the early 1800s through court decisions (Jagger, 1974: 1-6).

The first trade secret cases in the UK arose due to a breach of trade secrets in the form of misuse of trade secrets from a relationship between the parties involving obligations under the agreement to maintain confidentiality and not to disclose or use trade secrets. The first case of trade secrets in England occurred in early 1817 in the case of *Newberry against James* (Nalda, 1992: 414). The issue in *Newberry's* case against James is whether "abuse of secrecy" in the drug formula constitutes a violation and how the enforcement of the court ruling can be carried out without violating trade secret confidentiality during the court proceedings. The secret formula for treating gout is the subject of a legal conflict that led to *Newberry's* case against James becoming the first case reported in the UK. Sitting in the case, *Newberry*, as a distributor, promises not to make, give, procure, provide, or tell others about the secret formula of drugs to treat gout. However, Lord Chancellor Eldon refused to issue a ruling against the disclosure of trade secrets and did not allow the plaintiff to seek damages for any profits the trade secret breach received. In this first case, one reason for refusing damages from the wrong party was that "most of the confidential aspects of the formula had been disclosed in an expired English patent." The court's decision was considered inadequate concerning the confidential parts not shown in the patent because the defendant had learned those parts from the plaintiff correctly (Jager, 2014).

Lord Eldon was also deeply concerned about "the difficulties of carrying out court decisions to maintain the "secrecy" of an idea or idea." If the order is granted, "the court has no means if it turns out that its confidentiality has been violated because full disclosure of what is to be kept secret by the court cannot be carried out without disclosing the trade secret. Eventually, Lord Eldon ruled that the legal means to obtain justice and restore the plaintiffs' rights due to the breach of confidentiality could be granted. Thus, the plaintiff's rights are not legally harmed (Nalda, 1992:451).

In addition to the United Kingdom, the source of trade secret regulations can also be found in the United States, namely *the Uniform Trade Secrets Act*, which expands the definition of trade secrets from *the Restatement of the Law of Torts* and simplifies the standard for determining whether the information is kept confidential enough to meet the requirements of trade secret protection, as follows: "*Trade secret means information, including a formula, pattern, compilation, program, device, method, technique or process, that:(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (i) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.*"

Trade secrets play an important role in the realm of Intellectual Property Rights. Trade secrets are as important as *Copyright*, *trademark*, and *Industrial Design*. Global business competition causes the need to protect trade secrets to create a healthy and dynamic business world. The scope of protection of Trade Secrets in Law Number 30 of 2000 concerning Trade Secrets Article 2 includes Production methods, processing methods, sales methods, and other information in the field of technology and/or business that has economic value and is not known to the general public.

There are two main differences between trade secrets and other forms of Intellectual Property Rights (IPR), such as copyrights, patent rights, and trademarks, namely:

- a. Other forms of Intellectual Property Rights (IPR) are not confidential. Other forms of IPR are protected because they are wealth owned by other people.
- b. Trade secrets are protected even though they do not contain the value of creativity or new thinking. Most importantly, the trade secrets are not known to the general public.
- c. Other forms are always in the form of certain forms that can be written, drawn, or recorded exactly to the registration requirements that the government has set. Trade secrets do not have to be written; the most important thing is not the form of writing or recording the information, but the use of the concept, idea, or information itself can be given to other parties orally. This differs from patents or trademarks (Lindsey et al., 2006:238).

## **2. Implementation of Law Number 30 of 2000 concerning Trade Secrets in the Pharmaceutical Sector**

The protection of confidential information, known as trade secrets, in Indonesia has been regulated in Law Number 30 of 2000 Trade Secrets. Trade secret laws can be concise compared to other laws and regulations in the field of Intellectual Property Rights. As a result, it can potentially cause various interpretations and ambiguities for industry players in the field. Protecting trade secrets has become increasingly important lately with the development of business trends, from offline to *online*. Information about products is certainly an important asset of the company and must be maintained so that other business competitors do not imitate it.

However, problems arise when the application of criminal sanctions in Law Number 30 of 2000 concerning Trade Secrets has not been effective. This results in unclear information from the industry about protecting confidential information about its products, what should be done to avoid unfair competition, and theft of product secrets. Managing trade secrets is crucial for various companies, industries, or other businesspeople, including the pharmaceutical industry.

In the pharmaceutical industry, of course, the use of drugs is shown to cure a patient's disease. Cure by administering certain drugs must first consult a doctor, and the doctor must have diagnosed the patient's disease written on a prescription (Joenoos, 1998). The doctor's prescription is a paper containing a written request from a doctor for the pharmacy installation, namely the pharmacy preparing, making, formulating, and handing over drugs to patients (Syamsuni, 2006).

Based on the Regulation of the Minister of Health of the Republic of Indonesia Number 58 of 2014 concerning Pharmaceutical Service Standards in Hospitals Article 1 Paragraph 1, a doctor's prescription is a written request from a doctor or dentist to a pharmacist, either in paper or electronic form to provide and deliver drugs for patients by applicable regulations. In the prescription, the doctor is obliged to write the patient's prescription completely and clearly so that there is no mistake between the prescribing doctor and the pharmacist as the prescription reader, which can cause errors in the administration of the drug, the dosage of the drug and the time of administration or use of the drug given by the pharmacist to the patient or the redeemer of the prescription and even errors that have severe consequences for the patient's life.

However, what happens if various concocted drug products are circulated as a result of secret theft of drug prescriptions carried out by perpetrators who have worked in the pharmaceutical sector? Discussing problems in the pharmaceutical field and related to trade secrets is not only related to the theft of drug prescriptions but can also cause danger if the dosage of the drug content and the type of drug are not by the doctor's prescription. The lack of just one part of the complete structure of the prescription will endanger the community and cause the problem of prescription abuse, especially for drugs that contain narcotics and psychotropics. Indeed, technology has developed to detect drug counterfeiting. However, it will still be difficult to detect a fake prescription, and it will be even more difficult with the increasing number of perpetrators who abuse drugs in a country in different ways.

The practice of counterfeiting various types of drugs in Indonesia is indeed very concerning. Even drugs circulate in the community without a doctor's prescription. This is certainly very dangerous for the safety of patients or people who consume these drugs. For this reason, anticipatory steps must be taken immediately to create better competition in the pharmaceutical industry. Legal protection in the pharmaceutical sector, especially in various cases of drug counterfeiting in Indonesia, can be preventive and repressive protection.

### 3. Preventive Efforts to Protect Trade Secrets in the Pharmaceutical Sector

Preventive legal protection is carried out through the registration of trade secrets of drug products. This is as written in Law Number 30 of 2000 concerning Trade Secrets article 8, namely:

- 1) The license agreement must be recorded with the directorate general for a fee as provided for in this law.
- 2) Trade secret license agreements not registered with the Directorate General have no legal consequences against third parties.
- 3) The license agreement, as referred to in paragraph (1), is announced in the official trade secret bulletin.

If we understand that from the meaning of the license in writing, the granting of rights, although not the transfer of rights, to enjoy economic benefits, from this understanding that the owner of the trade secret recipe gives part of his rights to another person based on a written agreement. Based on Law Number 30 of 2000 concerning Trade Secrets, the protection of trade secrets of various prescriptions for medicines is carried out through registration. This registration process is intended to protect trade secret owners legally in the short and long term.

Indeed, in Law Number 30 of 2000 concerning Trade Secrets, there is no obligation to register trade secrets of their products for every business actor, in this case, pharmaceutical industry players. However, considering the many cases of drug prescription theft and then product counterfeiting, the owner of the trade secret of drug products must register various products. This minimizes attempts to steal and counterfeit various drug products from a pharmaceutical industry business actor.

The constitutive system adopted by Law Number 30 of 2000 concerning Trade Secrets is an effort to ensure legal certainty and protection for the owners of trade secrets. Legal certainty to determine the owner of the most important trade secret to protect is by looking at which party was first registered or has a secret trade rights license. In addition, it also provides legal certainty of proof if a legal case occurs on a

pharmaceutical product that occurs. Because legally, a registration license is the main and authentic evidence made by the authorized official, namely the Directorate General of Intellectual Property Rights. Thus, registering trade secrets in the pharmaceutical sector is a preventive effort against product prescription theft and drug counterfeiting.

#### 4. Repressive Efforts to Protect Trade Secret Laws in the Pharmaceutical Sector

In addition to preventive, in the context of trade secrets in the pharmaceutical sector, repressive legal protection can also be carried out, such as civil and/or criminal lawsuits. In Law Number 30 of 2000 concerning Trade Secrets Article 11, it is stated:

- 1) The holder of trade secret rights or the licensee may sue anyone who intentionally and without the right to commit an act as in article 4, in the form of:
  - a) Compensation lawsuits; and/or
  - b) Cessation of all acts as referred to in Article 4.
- 2) The lawsuit, as referred to in paragraph (1), is filed with the District Court.

In the event of a breach, the parties may resolve it also through arbitration or alternative dispute resolution. This is as written in Law Number 30 of 2000 concerning Trade Secrets Article 12, namely:

*In addition to the lawsuit settlement referred to in Article 11, the parties may resolve the dispute through arbitration or alternative dispute resolution."*

Meanwhile, within the scope of a person, it can be said that he has violated trade secrets, namely as written in article 13 of Law Number 30 of 2000 concerning Trade Secrets, namely:

*"Violation of trade secrets also occurs when a person deliberately discloses trade secrets, reneges on agreements, or reneges on written or unwritten obligations to maintain the trade secrets. "*

If we understand the article mentioned above, a person or party who has violated a trade secret can be said to be in default. Legally, the owner of a prescription drug trade secret can exercise his rights through civil and/or criminal lawsuits. In the case of drug counterfeiting, this has become a problem in various countries, so it needs serious attention to find the best way to deal with the act of counterfeiting these drugs. In the case of Indonesia, counterfeiting of various drug products is a problem that occurs in the pharmaceutical industry. For this reason, one way to deal with this problem is by repressively protecting trade secrets for various pharmaceutical products owned by pharmaceutical industry business actors.

In principle, a lawsuit for compensation is one of the means used to overcome theft and counterfeiting of prescriptions for drugs and unfair business competition because, in addition to harming and endangering public health, the perpetrators of theft and counterfeiting of prescriptions of drugs are considered to have accumulated large profits dishonestly. Therefore, the party who feels aggrieved is given the right by law to file a lawsuit for compensation, which a lawsuit for provision can even accompany.

A provision lawsuit is a request for the court to issue a judgment containing an order on interim measures before a final judgment is issued. The purpose is to avoid continuous loss or suffering to the Plaintiff and the interests of the Plaintiff during the case examination process until the verdict obtains permanent legal force. The plaintiff,



who feels aggrieved due to the violation, can apply to the Commercial Court to issue a Provisional Determination and submit compensation to the Defendant when the lawsuit begins to be examined and tried in front of the Commercial Court. This can be seen from various cases registered in the Commercial Court; few trade secret rights owners report or sue.

A major obstacle in eradicating manufacturers and/or perpetrators of theft and counterfeiting of prescription drugs is the low punishment imposed on the perpetrators who are caught, so that the perpetrators continue to commit acts of theft and counterfeiting of prescription drugs. The provisions of the crime of trade secrets regulated in Law Number 30 of 2000 concerning Trade Secrets must be enforced by the principle of *lex specialist*, meaning that the crime of trade secrets in the field of pharmacy is a special crime that is outside the provisions of general crimes regulated in the Criminal Code. The reason is that the crime of trade secrets in the pharmaceutical sector is specifically regulated as an inseparable unit from Law Number 30 of 2000 concerning Trade Secrets. So, the crime of trade secrets in the pharmaceutical sector is a sub-system completely attached to Law Number 30 of 2000 concerning Trade Secrets.

In addition, every criminal act of trade secrets in the pharmaceutical sector has been determined to have its delicacy element, so in its application, it is not allowed to look for delicacy elements in the articles of the Criminal Code. Likewise, the criminal threat has been specifically regulated for each type of trade secret crime in the pharmaceutical sector. Thus, both from a doctrinal approach and based on the principle of the Criminal Code (KUHP) Article 1, in the crime of trade secrets in the pharmaceutical sector, the principle of *lex specialis derogate lex generalis* is attached. Also, the principle of *lex posterior derogate lex prior* must be enforced for the crime of trade secrets in the pharmaceutical sector.

Therefore, it is important to make special arrangements that have the power to override the provisions in the articles of the Criminal Code for the crime of trade secrets in the pharmaceutical sector. So, if there are provisions for trade secret crimes in the pharmaceutical sector, they are almost identical to the articles in the Criminal Code. For this reason, the first step that must be taken by the public prosecutor when handling trade secret crimes in the pharmaceutical sector is to examine and analyze whether the crimes committed are mummified trade secret crimes in the pharmaceutical sector. If it turns out to be pure, then the principle of *lex specialis derogate lex generalis* must be upheld.

In addition, the change in the offence can become a complaint in Law Number 30 of 2000 concerning Trade Secrets, which is indeed a problem considering that the criminal act of trade secrets in the pharmaceutical sector, in addition to harming producers, consumers, and the state. A complaint offence means their violations can only be acted upon if there is a complaint and the aggrieved party. Therefore, the party who feels aggrieved must be able to act actively in processing his complaint to the Civil Servant Investigator (PPNS). Because without complaints from aggrieved parties, trade secret crimes in the pharmaceutical sector cannot be acted upon. In addition, only the holder of trade secret rights in the pharmaceutical sector knows whether there is a violation or criminal act against his trade secret that has received legal protection if it has been registered.

Protecting trade secrets in the pharmaceutical sector is one of the efforts to overcome the theft and counterfeiting of various pharmaceutical products in Indonesia. Protection accompanied by adequate law enforcement against trade secret crimes in the pharmaceutical sector is expected to positively impact the pharmaceutical industry in Indonesia through healthy business competition between business actors and in the form of quality assurance of officially registered products. Of course, healthy business competition will encourage pharmaceutical industry actors to use existing resources more efficiently and improve quality, service, and appropriate technology.

### CONCLUSION

Repressive legal protection carried out through various civil and/or criminal liability demands and alternative dispute resolution in trade secret cases in the pharmaceutical sector is still not optimal compared to preventive legal protection based on Law Number 30 of 2000 concerning Trade Secrets. Various cases of trade secret crimes in the pharmaceutical sector are still not optimally implemented even though Law Number 30 of 2000 concerning Trade Secrets has been regulated, as well as civil and criminal legal protection. Therefore, it is very important for every victim who has trade secret rights in the pharmaceutical sector to report allegations related to trade secret violations. In addition, law enforcement can also respond more to every complaint from the public regarding counterfeiting modes of various pharmaceutical products and complaints from trade secret rights owners. So, a quick and appropriate response will realize healthy business competition, ensure the quality of drugs, and minimize the medical impact of counterfeiting drugs consumed by the public.

### Reference

- Allen, Frederick. (1994). *Secret Formula: How Brilliant Marketing and Relentless Salesmanship Made Coca-Cola the Best-Known Product in the World*. New York: HarperCollins Publishers.
- Chisum, Donald S; Jacobs, Michael A.. (1992). *Understanding Intellectual Property Law*. New York-California: Matthew Bender and Company Incorporated.
- Coleman, Allison. (1992). *The Legal Protection of Trade Secrets*. London: Sweet & Maxwell.
- Jager, Melvin F.. (2014). *Trade Secrets Throughout the World* Illinois: Clark Boardman Company, Ltd.
- Joenoos, Z.N., (1998). *Resep yang rasional*. Surabaya: Airlangga University Press.
- Lindsey, Tim; Damian, Eddy; Butt, Simon; dan Utomo, Tomy Suryo. 2006. *Kekayaan Intelektual Suatu Pengantar*. Bandung: Asian Law Group Pty. Ltd. & PT Alumni,.
- Marzuki, Peter Mahmud. (2005). *Penelitian Hukum*. Jakarta: Kencana Prenada Media.
- Nalda, Carlos M.. (1992). Japan's New Trade Secret Law: We Asked For it. Now What Have We Got?, *Geo. Wash. J. Int'l & Econ. Vol. 26, 1992, p 414*.
- Priapantja, Cita Citrawinda. (1999). *Budaya Hukum Indonesia Menghadapi Globalisasi Perlindungan Rahasia Dagang Di Bidang Farmasi*. Jakarta: Chandra Pratama.
- Rothman, Jennifer E. (2019). The Right of Publicity's Intellectual Property Turn, *in Columbia Journal of Law & the Arts, Vol. 42 Issue 3, 2019, p. 277-319*.

- Sherwood, Robert M. (1997). Intellectual Property Systems and Investment Stimulation: The Rating of Systems in Eighteen Developing Countries, in *IDEA, The Journal of Law and Technology, Franklin Pierce Law Center, Vol. 37, No. 2, 1997*.
- Soerjono, Soekanto; dan Mamudji, Sri (2006). *Penelitian Hukum Normatif*. Jakarta: Raja Grafindo Persada.
- Syamsuni. (2006). *Farmasetika Dasar dan Hitungan Farmasi*. Jakarta: Penerbit Buku Kedokteran EGC.
- Undang – Undang Nomor 30 Tahun 2000 Tentang Rahasia Dagang.
- Widjaja, Gunawan. (2001). *Seri Hukum Bisnis Rahasia Dagang*. Jakarta: PT RajaGrafindo Persada.