


The Relevance of Personal Data to Trade Secrets Reviewed from the Trade Secrets Act

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Abstract

The connection of personal data as business information must receive protection based on the definition of trade secret as explained in Article 1 point 1 of Law no. 30 of 2000. Legal protection of personal data which is considered business information can be carried out by referring to Law no. 30 of 2000 concerning Trade Secrets and regulations governing Personal Data in Indonesia. The research method used is normative juridical with a problem approach to legislation and a conceptual approach. Sources of legal materials used include primary, secondary and tertiary legal materials. Management of legal materials is carried out qualitatively to answer the problems faced. Analysis of the relationship between trade secrets and personal data in this research was carried out by considering the elements of information, economic value and confidentiality as regulated in Article 1 of Law no. 30 of 2000. Confidentiality must be maintained and requires permission from the owner. Individual personal data, including consumer lists, is business information that has economic value because it supports business policy making. Misuse of this data can endanger the information controller. When personal data leaks occur, economic value and related confidentiality can be threatened. The research results show that acts of misuse of personal data can be subject to sanctions based on Articles 13 and 14 of the Trade Secrets Law and Article 32 paragraphs (1) and (3) of the ITE Law.

Keywords: Relationship; Personal Data; Trade Secrets.


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INTRODUCTION

Protection of personal data is a Human Rights based on the Constitution of the Republic of Indonesia in 1945. The state needs to ensure the protection of personal data in strict regulations because Indonesia is a country of law, as stipulated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Thus, the order in the life of the nation, society and state is based on the applicable law. Therefore, the law is used as a tool to guarantee the protection of these Rights. Data is categorized as personal data if it is confidential and can be used to identify the individual concerned according to the needs of the data owner¹."

¹ European union agency for fundamental rights and council of europe, *handbook on European data protection law*, ed. council of Europe, (2014).

Personal data and trade secrets actually occur because of the legal protection of both. Personal data refers to information that can identify a specific individual, such as name, address, phone number, or even medical information. Meanwhile, trade secrets are business information that should be kept secret by the company so that competitors or the public do not know. This could be a unique product formula, a secret production method, an exclusive marketing strategy, or another important business plan.

The relationship between personal data and trade secrets is regulated in Law No. 27 of 2022 article 27 concerning Personal Data Protection (PDP Law) "Personal data controllers are obliged to process personal data in a limited and specific manner, legally legal, and transparent." The interplay between personal data and trade secrets occurs when companies must protect their customers' personal data as part of securing their intellectual property. For example, if a company has a customer database that contains sensitive information such as credit card numbers or purchase history, the customer is a high-value asset to the company. Trade secrets can also include the methods of collecting and analyzing customer data that form the basis of a company's business strategy.

Trade secrets refer to information that is not publicly available in the technology and/or business sector, and has economic value due to its usefulness in business activities. This information must be protected by its owner. Trade secret protection applies as long as the information remains unknown to the public. This Intellectual Property Rights (IPR) has a privilege because its protection does not require registration or official announcement²."

In reality, many companies don't realize that they have information that actually falls under the category of trade secrets. This information has significant commercial value and can be of great benefit to it should be protected. According to Law Number 30 of 2000 concerning Trade Secrets, information classified as trade secrets includes production methods, processing methods, sales methods, or other information in the field of technology and/or business that has economic value and is not known to the public. In practice, definitions of other methods or information in the field of technology and/or business with economic value can include:

² Sudaryat, Sudjana dan Rika Ratna Permata, *Hak Kekayaan Intelektual, Memahami Prinsip Dasar, Cakupan, Dan Undang-Undang Yang Berlaku*, (Bandung: OASE MEDIA, 2010), hal. 24.

"Related to organic technology, Related to advanced technology, Related to trading/business methods, Related to subscription lists, and Related to business knowledge.³"

In this context, it is important to maintain the confidentiality of these two things in order to maintain the integrity and reputation of a business organization and ensure that the privacy rights of individuals are properly protected. The juridical analysis of the relationship between personal data and trade secrets in trade secrets law is based on legal protection of both aspects.

Law No. 30 of 2000 on trade secrets aims to protect valuable business information and is kept confidential by companies. Meanwhile, the protection of personal data is governed by personal data protection laws that focus on the rights of individuals to the use and disclosure of their information.

The juridical analysis will consider how these two types of laws are interrelated. For example, is there a provision in Law Number 27 of 2022 concerning Personal Data Protection that provides an exemption for companies to collect or use customers' personal data as part of their business activities related to trade secrets.

The 1945 Constitution of the Republic of Indonesia Article 28G paragraph (1) also affirms and recognizes that the right to self-protection, including privacy, is part of the human rights of every individual. Personal data protection is also an integral part of privacy protection, where data protection has a wide range of legal protection for the substance of a regulation by paying attention to several elements that are a common ground for a legal regulation both in personal data and included in legal comparisons in various developing countries.⁴

In the context of Trade Secrets, there is the concept of protection which is an aspect of Intellectual Property Rights (IPR), which has become the main focus. Advances in science and technology have a significant impact on the development of the industry, which ultimately affects Intellectual Property Rights (IPR). IPR refers to the right to copyrighted works, be they works of art, technology, or creative ideas, which are inherent and inherent to the creator, and cannot be denied their existence.

³ Adrian Sutedi, *Hak Kekayaan Intelektual*, (Jakarta: PT. Sinar Gratika, 2013), hal. 125.

⁴ Kementerian Komunikasi dan informatika dan *Cyber Law Center* Fakultas Hukum, naskah akademik, rancangan UU Perlindungan data pribadi 2015.

Someone's creative work needs to be protected because its benefits are not only felt by its creator, but also by everyone. Intellectual works have a great impact on the progress of society, including in the economic field. Therefore inventors and creators deserve to be rewarded through their Intellectual Rights. Intellectual Property Rights (IPR) affect the economic growth of a country and ultimately have an impact on people's welfare⁵.

Intellectual Property Rights (IPR) play 3 crucial roles in stimulating the economy, which can ultimately improve human welfare and prosperity. In Intellectual Property Rights, there is an Exclusive Rights because it can only be given to individuals who create a work with their abilities. This Exclusive Rights includes economic rights, namely the right to obtain profits in the form of money or royalties from the work.⁶

Based on such Rights, only the owner of the work has the authority to publish, reproduce, distribute, and perform actions related to such Rights, or to give consent to other parties. Every IPR object has a high economic value for its owner, hence the need for strict legal protection. This is because the object of IPR contains economic rights inherent to the IPR holder.

Intellectual Property Rights is a form of appreciation for a person's work, both in the form of invention and art *and literary work*, especially when the results of creativity are used for commercial purposes. Based on this understanding, a special award is required for a person's intellectual work and the Rights associated with it. As the concept of Intellectual Property Rights develops, it is important to set up a specific reward mechanism for such works.

Based on *law enforcement*, the point that is part of the protection is the rights that one person has, in the sense that another person cannot use these rights because the information in trade secrets is very limited and not known to the public, protection of confidentiality is required.

In every country, the law protects trade secrets from misuse by other parties. Common examples of concepts or information that are legally protected include: 1) "List of customers; 2) Market research; 3) Technical research; 4) Recipes for dishes or herbs used to produce a particular product; 5) Certain work systems that are quite profitable; 6) The idea or concept

⁵ Bernard Nainggolan, *Pemberdayaan Hukum Hak Cipta Dan Lembaga Manajemen Kolektif*, PT.ALUMNI, Bandung, 2011, halaman 1-2.

⁶ M.Djumhana dan R.Djubaedillah, *Hak Milik Intelektual (Sejarah, Teori, dan Prakteknya di Indonesia)*, P.T. Citra Aditya Bakti, Bandung, 1997, hal. 65.

underlying the advertising or marketing campaign; 7) Financial information or price lists that show the profit margin of a product; 8) A way to change or produce a product using chemicals or machines⁷."

Laws serve only to protect information, concepts, or ideas, not their physical form. Therefore, the information does not have to be in writing to be considered confidential. This is one of the main differences between trade secrets and other forms of Intellectual Property Rights (IPR). According to Article 1 Number (1) of the Trade Secrets Law, "Trade secrets are information that is unknown to the public in the field of technology and/or business, has economic value because it is useful in business activities, and is kept confidential by the owner of trade secrets." This law also affirms that if a person without the right to disclose or obtain the contents of trade secrets, he or she can be subject to legal sanctions.

Furthermore, if you look at Article 2 of the Trade Secret Law "the scope of trade secret protection includes production methods, management methods, sales methods, or other information in the field of technology and/or business that has economic value that is unknown to the general public". So the definition of trade secrets encompasses four concepts: "(1) Technical or commercial information related to business, (2) Must not be known to the public, (3) Must have value to the business because it is kept secret, and (4) There must be reasonable efforts to protect trade secrets from disclosure. In trade secrets, there is a concept of protection which is also a problem of intellectual property⁸." In addition, the confidentiality of information in terms of intellectual property also needs to be properly protected so that it is not misused by other parties. A person's property rights must be respected so that no one else can use them without permission.⁹ Information confidentiality is one of the requirements for trade secret protection that can be provided. The substance in the Trade Secrets Law is all information of a confidential nature. If there is a person who without the right to disclose and obtain the contents of trade secrets contrary to the law, then based on article 17 of the Trade Secrets Law,

⁷ Tim Lindsey, Eddy Damian, Simon Butt, Tomi Suryo Utomo, *Hak Kekayaan Intelektual Suatu Pengantar*, PT. Alumni, Bandung, 2011, hal. 236.

⁸ Haakon Thue Lie, "Introduction to current trade secret management research" (Norwegian University of Science and Technology, 2020)

⁹ Atmajaya, "Rahasia dagang: informasi komersial di bidang teknologi/bisnis," <https://atmajaya.ac> - di akses pada 3 maret 2023 pukul 16.52

the violator can be charged Rp 300,000,000 (three hundred million rupiah) as a maximum fine, termination of the act and filing a lawsuit to the district court.

It has been reported that Indonesia is included in the "*Priority Watch List*" category, which means it has priority to be monitored. Cases of violations of Intellectual Property Rights (IPR) that cannot be resolved are serious threats to economic development and trade. Investors will rethink investing in countries where cases of IPR infringement have received less serious attention from the Government concerned¹⁰.

This has to do with the quality of the product they will buy. Even though these investors are urgently needed by the country that is actively developing. On the other hand, the threat of the agreement of TRIPs (*Agreement on Trade-Related Aspects Of Intellectual Property Rights*) is that if Indonesia is unable to comply with the TRIPs agreement, it will result in WTO (*World Trade Organization*) trade sanctions. This will actually result in the increasingly difficult space for trade because it continues to narrow. It is not new news that many cases of trademark counterfeiting and copyright piracy are rampant in Indonesia.

The regulation on IPR basically aims to provide legal protection for intellectual works, both in the form of creations in the fields of science, art, and literature, trademarks that are trademarks used for traded goods, new inventions in the field of technology and new genetic engineering and other types of intellectual works. The protection is directed to create a climate that is able to provide a stimulant for sustainable work activities.¹¹

The existence of IPR protection is expected to encourage the enthusiasm of creators, inventors, and creative economic actors, to continuously create and work to produce works that can enrich the nation's cultural treasures and civilization and advance the state's economic level.

Currently, Indonesia has laws and regulations on protection in the field of HAK I, namely Law of the Republic of Indonesia (UU RI) No. 14 of 2001 concerning Patents, Law of the Republic of Indonesia No. 15 of 2001 concerning Trademarks, Law of the Republic of Indonesia

¹⁰ Nelly Efrida dalam Henry Soelistyo Budi dan Suyud Margono, *Bunga Rampai Hak Atas Kekayaan Intelektual (HAKI) Kumpulan Esai*, Perhimpunan Masyarakat HAKI Indonesia, Jakarta, 2001, hal. 78.

¹¹ Witjaksana Soegarda, "Kerjasama ASEAN di bidang Hak Atas Kekayaan Intelektual (HAKI)", (Jakarta, Proyek Peningkatan Kerjasama ASEAN Direktorat Jenderal Sekretariat Nasional ASEAN, Departemen Luar Negeri Republik Indonesia 1997-1998, 1998), hlm.17.

No. 19 of 2002 concerning Copyright, and Law of the Republic of Indonesia No. 30 of 2000 concerning Trade Secrets. Therefore, in addition to the above, IPR law in Indonesia is also sourced from the provisions of International IPR, such as those contained in the provisions of *the World Intellectual Property Organization (WIPO), Trade-Related Aspects of Intellectual Property Rights (TRIPs)*, and other treaties.

METHODS OF THE RESEARCH

This research is legal research that lays down law as a norm building, this normative research is a study on legal systematics, namely research whose main purpose is to identify the meanings or bases in law.¹² The approach method used in this study that is in accordance with the formulation of the problem as the object problem to be discussed is: a) conceptual approach, which is carried out when the researcher does not move from the existing legal rules; b) Legislative approach, which is an approach carried out by examining laws that are relevant to the legal issues being discussed. Sources of legal materials include primary legal materials and secondary legal materials and tertiary law¹³ a) Primary Legal Materials: Primary legal materials are the main legal materials, as *authoritative laws*, namely legal materials that have authority, official documents that contain legal provisions. The researchers used, namely: 1) Civil Code; 2) Law No. 30 of 2000 concerning trade secrets¹⁴; 3) Law No. 27 of 2022 concerning personal data protection; b) Secondary Legal Materials: Are documents or legal materials that provide explanations of primary legal materials such as books, articles, journals, and research results; c) Tertiary Legal Materials: As laws that provide guidance and explanations for primary and secondary legal materials, such as dictionaries, and encyclopedias. The collection of legal materials in this study is carried out using online and direct access such as websites, journals related to this research issue and reviewing literature from various sources such as books, dictionaries, laws and other information.¹⁵ The analysis of legal materials carried out in this study is through criticism, support or reasoning. The results of the research with the help of literature review and analysis of laws and regulations.

¹² Bambang Sunggono, *Metodologi Penelitian Hukum*(Jakarta: Raja Grafindo Persada,2016) hal 93

¹³ <https://simdous.unud.ac.id-Sumber Hukum>

¹⁴ <https://dik.ipb.ac.id>

¹⁵ <http://Repository.ub.ac.id>

RESULTS AND DISCUSSION

A. Legal Protection of Personal Data

The protection of personal data cannot be separated from the concept of privacy. The law has recognized the concept of privacy, especially in the context of physical disturbances such as *trespass* (entering someone else's yard without permission) that is regulated in criminal law. As it develops, the law now also provides protection for the emotional and intellectual aspects of human beings, including the right to protect personal data and the privacy of individuals more broadly. Samuel D. Warren and Louis D. Brandeis (1890) stated that privacy is the development of legal protection of the emotional aspects of humans. They say that privacy includes not only protection against physical disturbances, but also against the emotional and psychological aspects related to a person's private life. Furthermore, Alan Westin defines privacy as "*Privacy is the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others*".¹⁶

According to the concept of data protection, individuals have the authority to choose whether they want to share or exchange their personal data. Individuals also have the right to set the terms regarding the transfer of personal data. Along with developments, privacy protections have evolved so that Privacy Rights can be formulated effectively to protect personal data.¹⁷

With this legal basis, the right to privacy to personal data must be recognized and protected, because the protection of personal data as a right to privacy is a constitutional right of Indonesian citizens. Constitutional rights are the state's obligation to provide legal protection to aspects of the lives of Indonesian people. Every Indonesian citizen is entitled to this constitutional right, which aims to ensure legal certainty, legal justice, and legal utility.

According to Article 1 number 1 of Law No. 27 of 2022 concerning Personal Data Protection which reads: "Personal Data is data about an individual that is identified or can be identified separately or in combination with other information either directly or indirectly through

¹⁶ Yuniarti, S, 2019, "Perlindungan Hukum Data Pribadi Di Indonesia", Jurnal Becoss, Vol. 1 No.1, Hal. 147154

¹⁷ Erna, P 2019, "Pentingnya Perlindungan Data Pribadi Dalam Transaksi Pinjaman Online (*The Urgency of Personal Protection in Peer to Peer Lending*)", Majalah Hukum Nasional, No.2, Hal 1-27

electronic and non-electronic systems. Personal Data can be divided into two categories: 1) General Personal Data, such as full name, gender, nationality, religion, or data that can be combined to identify an individual; 2) Specific Personal Data, such as health information, biometric data, genetic data, sexual orientation, political views, criminal records and personal financial data. Misuse of personal data is such as disseminating and using someone's personal data without permission. Misuse of personal data must of course be protected by law as contained in Law No. 27 of 2022 article 67.

B. Relevance of Personal Data to Trade Secrets.

According to the Trade Secrets Law Article 1 Paragraph (1), Trade secrets are information that is not known to the public in the field of technology and/or business that has economic value because it is useful in business activities and is kept confidential by the owner of trade secrets.

The link between personal data and trade secrets is that personal data can be part of business information that is considered a trade secret. For example, Customer Data, Employee Data, other strategic information.

In addition, the relationship between trade secrets and personal data can be analyzed based on 3 elements, namely the Information Element, the Economic Value Element, and the Confidentiality Element. Personal Data herein includes a collection of individual data that is not speculative in nature including consumer lists and business information. This data has economic value because it plays a role in policy formulation by business actors. If the data is misused, it can harm the data controller. Confidentiality must be maintained and requires permission from the owner. Personal data sets are often considered trade secrets by business actors, so consumers don't know the extent to which their personal data is being used. When there is a leak, the confidentiality and economic value of the personal data set can be lost, even if the individual's personal data remains.

C. Trade Secret Protection Classification

To protect the right to Trade Secrets against several legal rules that provide protection, such as: 1) Law No. 30 of 2000 concerning Trade Secrets: This Law regulates the protection and provides legal recognition of the ownership rights and confidentiality of business information

that is considered confidential. Misuse of personal data that is part of trade secrets may be considered a violation of this law; 2) Law No. 27 of 2022 concerning Personal Data Protection: This law regulates the protection of personal data and establishes requirements and obligations for companies in the collection, use and disclosure of personal data. Misuse of personal data in the context of trade secrets may violate this law.

D. Personal Data Protection Regulations in the Trade Secrets Act

Trade Secrets are regulated in Law Number 30 of 2000. According to Article 1 paragraph (1) of the Law, trade secrets are defined as information that is not known to the public in the field of technology or business, has economic value because of its benefits in business activities, and is kept confidential by its owner.

If we look at the existing formula, we can conclude that the definition of Trade Secrets includes the following elements: 1) There is an understanding of information; 2) This information is information that is not known to the public; 3) The information is in the field of technology and/or business; 4) The information must have economic value; and 5) The information must be kept confidential by the owner.

In Article 2 of Law Number 30 of 2000 concerning Trade Secrets, which regulates as follows: 1) Trade Secrets will be protected if the information is confidential, has economic value, and is kept confidential through appropriate efforts; 2) Information is considered confidential if it is only known by certain parties and not generally known by the public; 3) Information is considered to be of economic value if its confidentiality can be used in commercial business activities or can increase financial profits. Information is considered to be kept confidential if the owner or the party controlling it has taken reasonable and appropriate steps.

CONCLUSION

Regulating trade secrets in Indonesia, in order to obtain protection, there are standards that must be met first. Information or data must meet the criteria to be categorized as trade secrets. This means that the information must be of a confidential nature that is limited to its owner or the party who has obtained permission from the owner, so that it is considered a trade secret. Intellectual Property Rights in the form of trade secrets of a company include information that

has value, both in written and unwritten form, as long as the information remains confidential and has competitive value to be used as a tool to compete with other parties. The characteristics of trade secret protection include several advantages, such as an unlimited period of protection, the confidentiality maintained because the information remains closed, and the ability to protect components of the company such as customer lists and marketing methods. However, trade secret systems also have disadvantages, such as the effort required to maintain trade secrets that can affect productivity due to their strict protection system. This confidentiality also determines the duration of protection; Once the confidential information is published by the owner, the protection will be lost. Therefore, owners of confidential information need to incur significant costs to keep such confidential information from their company.

REFERENCES

Journal

Yuniarti, S, 2019, "Perlindungan Hukum Data Pribadi Di Indonesia", Jurnal Becoss, Vol. 1 No.1,

Book

Bambang Sunggono, Metodologi Penelitian Hukum (Jakarta: Raja Grafindo Persada, 2016)

Sudaryat, Sudjana dan Rika Ratna Permata, Hak Kekayaan Intelektual, Memahami Prinsip Dasar, Cakupan, Dan Undang-Undang Yang Berlaku, (Bandung: OASE MEDIA, 2010).

Adrian Sutedi, Hak Kekayaan Intelektual, (Jakarta: PT. Sinar Gratika, 2013).

Bernard Nainggolan, *Pemberdayaan Hukum Hak Cipta Dan Lembaga Manajemen Kolektif*, PT. ALUMNI, Bandung, 2011.

M.Djumhana dan R.Djubaedillah, *Hak Milik Intelektual (Sejarah, Teori, dan Prakteknya di Indonesia)*, P.T. Citra Aditya Bakti, Bandung, 1997.

Tim Lindsey, Eddy Damian, Simon Butt, Tomi Suryo Utomo, *Hak Kekayaan Intelektual Suatu Pengantar*, PT. Alumni, Bandung, 2011.

Nelly Efrida dalam Henry Soelistyo Budi dan Suyud Margono, *Bunga Rampai Hak Atas Kekayaan Intelektual (HAKI) Kumpulan Esai*, Perhimpunan Masyarakat HAKI Indonesia, Jakarta, 2001.

Online/ Online/World Wide Web, and others

European union agency for fundamental rights and council of europe, handbook on European data protection law, ed. council of Europe, (2014).

Kementrian Komunikasi dan informatika dan *Cyber Law Center* Fakultas Hukum, naskah akademik, rancangan UU Perlindungan data pribadi 2015.

Haakon Thue Lie, "Introduction to current trade secret management research" (Norwegian University of Science and Technology, 2020)

Atmajaya, "Rahasia dagang: informasi komersial di bidang teknologi/bisnis," <https://atmajaya.ac>. – di akses pada 3 maret 2023 pukul 16.52

Witjaksana Soegarda, "Kerjasama ASEAN di bidang Hak Atas Kekayaan Intelektual (HAK I)", (Jakarta, Proyek Peningkatan Kerjasama ASEAN Direktorat Jenderal Sekretariat Nasional ASEAN, Departemen Luar Negeri Republik Indonesia 1997-1998, 1998).

<https://simdous.unud.ac.id>-Sumber Hukum

<https://dik.ipb.ac.id>

<http://Repository.ub.ac.id>

Erna, P 2019, "Pentingnya Perlindungan Data Pribadi Dalam Transaksi Pinjaman Online (*The Urgency of Personal Protection in Peer to Peer Lending*)", Majalah Hukum Nasional, No.2.

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