

ABSTRAK

Dikeluarkannya *Russia Decree of The Government of The Russian Federation No. 299* “Tentang Perubahan Klausul 2 Metodologi untuk Menentukan Jumlah Kompensasi yang Dibayarkan kepada Pemilik Paten Ketika Memutuskan untuk Menggunakan Invensi, Model Utilitas, atau Desain Industri tanpa Persetujuannya, dan Tata Cara Pembayaran” mengubah metodologi dalam hal remunerasi yang harus dibayarkan kepada pemegang hak yang harusnya berjumlah 0,5% menjadi 0% jika pemegang hak melakukan tindakan yang tidak bersahabat terhadap badan hukum atau perorangan Rusia.

Akibatnya timbul pertanyaan dalam penelitian ini, apakah konsistensi *Russia Decree of The Government of The Russian Federation No. 299* dengan ketentuan *TRIPs Agreement*? Serta bagaimana penerapan *Russia Decree of The Government of The Russian Federation No.299* dalam kasus Peppa Pig (nomor kasus A28-11930/2021)?

Hasil penelitian menunjukkan bahwa tidak ada konsistensi antara *Russia Decree of The Government of The Russian Federation No. 299* dengan *Article 8* dari *TRIPs Agreement*, karena kondisi Rusia saat dikeluarkannya dekrit tersebut tidak dalam konteks untuk melindungi hal-hal di atas, serta pada *Article 30* karena adanya remunerasi yang dibayarkan kepada pemegang hak menjadi 0%. Penerapan *Russia Decree of The Government of The Russian Federation No. 299* dalam kasus Peppa Pig ditunjukkan dengan adanya remunerasi dari merek dagang Peppa Pig menjadi nol (Mengingat tindakan pembatasan yang diberlakukan pada Federasi Rusia dan status penggugat (penggugat berdomisili di Inggris dan pengadilan menganggap tindakan penggugat sebagai penyalahgunaan hak, yang merupakan alasan independen untuk menolak klaim) menurut Putusan Pengadilan Arbitrase Wilayah Kirov sebelum adanya banding. Begitu juga dengan Putusan Banding Pengadilan Arbitrase Wilayah Kirov dan Putusan Kasasi Pengadilan Hak Kekayaan Intelektual.

Kata Kunci: Hak Kekayaan Intelektual, *TRIPs Agreement*, *Russia Decree of The Government of The Russian Federation No. 299*

ABSTRACT

The issuance of Russia Decree of the Government of the Russian Federation No. 299 "On Amendments to Clause 2 of the Methodology for Determining the Amount of Compensation Payable to a Patent Owner When Deciding to Use an Invention, Utility Model, or Industrial Design without Its Consent, and the Procedure for Its Payment" changed the methodology in terms of the remuneration payable to the right holder which should amount to 0.5% to 0% if the right holder commits unfriendly acts against Russian legal entities or individuals.

As a result, the question arises in this study, what is the consistency of Russia Decree of the Government of the Russian Federation No. 299 with the provisions of the TRIPs Agreement? And how is the application of Russia Decree of the Government of the Russian Federation No.299 in the Peppa Pig case (case number A28-11930/2021)?

The results show that there is no consistency between Russia Decree of The Government of The Russian Federation No. 299 with Article 8 of the TRIPs Agreement, because the conditions in Russia when the decree was issued were not in the context of protecting the above matters, as well as in Article 30 because the remuneration paid to right holders became 0%. The application of Russia Decree of the Government of the Russian Federation No. 299 in the Peppa Pig case was demonstrated by the remuneration of the Peppa Pig trademark being zero (Given the restrictive measures imposed on the Russian Federation and the status of the plaintiff (the plaintiff was domiciled in the UK). The court considered the claimant's actions to be an abuse of rights, which was an independent reason for rejecting the claim) according to the Decision of the Arbitration Court of the Kirov Region before the appeal. Likewise, the Appeal Decision of the Arbitration Court of the Kirov Region and the Cassation Decision of the Intellectual Property Court.

Keywords: Intellectual Property Rights, TRIPs Agreement, Russia Decree of The Government of The Russian Federation No. 299