ABSTRAK

Paten berperan penting dalam mendorong inovasi melalui pemberian hak eksklusif atas invensi. Namun, pemanfaatannya acapkali menghadapi tantangan berupa praktik *patent evergreening*, yaitu perpanjangan perlindungan paten melalui modifikasi minor tanpa peningkatan signifikan. Di Indonesia, pencegahan praktik tersebut dilakukan melalui pemeriksaan substantif dan *patent opposition*, tetapi efektivitasnya melemah pasca dihapusnya Pasal 4 huruf F Undang-Undang Nomor 13 Tahun 2016 dan belum diaturnya *pre-grant opposition*. Sementara itu, Jepang dan India telah mengatur mekanisme yang lebih komprehensif melalui Japan Patent Act dan Indian Patent Act dalam mencegah praktik tersebut. Penelitian ini menggunakan metode doktrinal dengan pendekatan peraturan perundang-undangan dan pendekatan komparatif yang dianalisis secara deskriptif analitis. Hasil penelitian menunjukkan bahwa pencegahan *patent evergreening* di Indonesia belum optimal setelah dihapusnya Pasal 4 huruf F melalui Undang-Undang Nomor 65 Tahun 2024 yang selama ini telah menjadi larangan eksplisit praktik tersebut. Mekanisme keberatan paten juga bersifat represif karena belum mengatur *pre-grant opposition* dan belum didukungnya *quality assurance* dalam pemeriksaan paten. Sebagai perbandingan, Jepang mencegah praktik ini melalui pemeriksaan substantif dan *quality assurance* yang ketat serta *invalidation trial opposition* dan *post-grant opposition*. Adapun India secara tegas melarang modifikasi minor melalui Pasal 3(d) Indian Patent Act yang diperkuat dengan *quality assurance* dan mekanisme *pre-grant* dan *post-grant opposition*.

Kata Kunci: *Patent Evergreening*, Pemeriksaan Substantif, *Patent Opposition*

ABSTRACT

Patents play a crucial role in driving innovation by granting exclusive rights to inventions. However, their utilization often faces challenges in the form of patent evergreening, the practice of extending patent protection through minor modifications without significant improvements. In Indonesia, efforts to prevent such practices are carried out through substantive examination and patent opposition; however, their effectiveness has weakened following the repeal of Article 4(f) of Law No. 13 of 2016 and the absence of regulations on pre-grant opposition. Meanwhile, Japan and India have established more comprehensive mechanisms through the Japan Patent Act and the Indian Patent Act to prevent such practices. This study employs a doctrinal method using a legal framework approach and a comparative approach, analyzed through a descriptive-analytical framework. The findings indicate that the prevention of patent evergreening in Indonesia remains suboptimal following the repeal of Article 4(f) via Law No. 65 of 2024, which had previously served as an explicit prohibition against such practices. The patent opposition mechanism is also repressive in nature because it does not yet regulate pre-grant opposition and is not supported by quality assurance in patent examination. In comparison, Japan prevents this practice through strict substantive examination and quality assurance, as well as invalidation trial opposition and post-grant opposition. Meanwhile, India explicitly prohibits minor modifications under Section 3(d) of the Indian Patent Act, supported by quality assurance measures as well as pre-grant and post-grant opposition mechanisms.

Keywords: **Patent Evergreening, Substantive Examination, Patent Opposition**