Legal Protection of Patent Rights on Artificial Intelligence Work

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Abstract

The Patent Law in Indonesia does not regulate patents filed by artificial intelligence at all. This is because from the start only humans and legal entities were considered legal subjects, so cases such as DABUS (Device for Autonomous Bootstrapping of Unified Sentience) which were new, constituted an urgency to review the Patent Law as a whole. If we look at the case of DABUS, which until now has not been categorized as an inventor, it will have a bad impact on the inventor of artificial intelligence because the inventor of artificial intelligence does not get recognition or profit from a product created by artificial intelligence. This also has another bad impact, namely reducing the motivation of inventors to develop artificial intelligence technology. In this study using a normative juridical approach using data obtained through library materials. The results of the study show that artificial intelligence is still considered a tool (tools) only and does not develop due to a lack of adequate appreciation, one of which is the recognition of patent rights for the DABUS invention, so there is an urgency to review the Patent Law as a whole.

Key words: artificial intelligence, dabus, legal protection, patent rights, technology.

Introduction

Technology has progressed rapidly since it was first created, from computers made by Charles Babbage to Tesla cars based on full computers made by Elon Musk. (Gerardus, 2015) Then a branch of computer-based technology was created with the name artificial intelligence. (Pabubung, 2021) Artificial intelligence was first created by Alan Turing, who built the Bombe machine to securely send messages to German troops during World War II. This machine is the foundation for artificial intelligence until now, where artificial intelligence is made so close to humans that in the end artificial intelligence can think and interact on its own without the need for orders from anyone. (Amin, 2009)

But in reality the development of artificial intelligence does not always bring a good impact, various problems also arise as a result of the increasingly advanced artificial intelligence. DABUS, which stands for Device for Autonomous Bootstrapping of Unified Sentience, is one example of artificial intelligence that creates a complication because he filed a patent for his own invention. (Ririen, 2008)

It is undeniable that artificial intelligence has developed rapidly over the past few years. This is evidenced by the achievements of artificial intelligence that beat humans in several fields, such as winning the Jeopardy! competition, defeating the Japanese Chess champion Go, posing as a teaching assistant, covering the 2016 Rio Olympics, and even working as a lawyer in the bankruptcy field. (Halim & Prasetyo, 2021)
Today's artificial intelligence has a very high level of adaptation when compared to traditional artificial intelligence which only processes data through predetermined rules, today's artificial intelligence can process information that changes constantly and if needed, the purpose of artificial intelligence can be change and develop from the beginning as a result of changes in the information. But the rapid development of artificial intelligence also raises an unavoidable problem, one of which is the creation of an artificial intelligence. (Sihomboing 2020)

An important element of patents is that patents are rights granted by the government and are exclusive. Acts which are the exclusive rights of the patent holder are production (manufacturing), use (using), sale (selling) of patented goods, and actions related to the sale of such goods, such as importing and stocking. Djumhana dan Djubaedilah (2003)

Patent is part of the concept of Intellectual Property Rights, the concept includes:

a. Intellectual property rights, attached to the owner, are permanent and exclusive
b. Rights obtained by other parties with permission from the owner, are temporary.

The result of human thinking ability is an idea that is realized in the form of a creation or invention. The idea is attached to an intellectual predicate that is abstract, the consequence is that Intellectual Property Rights become separate from material objects in their form, for example, Patents are ideas in the field of technology called Intellectual Property Rights. (Abdul kadir, 2007)

Law No. 13 of 2016 concerning Patents also does not mention this issue specifically. So the focus of writing this article is how the Urgency of Legal Protection of Patents for Works by Artificial Intelligence is

Method

The research method used is normative juridical, namely research that uses data obtained through library materials. The first step carried out by this research is based on secondary legal materials which include statutory documents, official documents, books, jurisprudence related to the analysis in particular of the Legal Protection of Patent Rights on Works by Artificial Intelligence. This research uses approaches: statute approach, and conceptual approach. The technique of tracing legal materials uses document study techniques (library research), and analysis of studies using qualitative analysis.

Results & Discussion

The Urgency of Legal Protection of Patents for Works by Artificial Intelligence

The provision in Article 12 paragraph (1) of the Patent Law states that the Patent Holder for the Invention produced by the Inventor in an employment relationship is the party providing the work, so it cannot be used in the DABUS case because DABUS made 2 (two) inventions without any order/form of relationship, the work of the inventor, namely with his own ideas and will. There is also no prior agreement between DABUS and its inventors regarding the Patent Holders of the results of their inventions so that this makes the status of the Patent Holders unclear.

Letter c in the section on considering the Patent Law states that patent protection is important because it can motivate inventors to improve their work. Therefore, the Patent Law should be revised or made anew because if DABUS is unable to obtain patent rights for its 2 (two) inventions, it will indirectly hinder and reduce the motivation of the inventor. The current Patent Law makes artificial intelligence unable to apply for patents and eventually the development of artificial intelligence will decrease. Inventors will prefer to make their own inventions even though with a longer time and method compared to artificial intelligence and at the same time leave artificial intelligence technology. In the end, patents on artificial intelligence will automatically decrease so that technological developments will also be hampered. There is no benefit for inventors or for the welfare of the nation and state because it cannot be denied that artificial intelligence such as DABUS has become an important part of the life of the nation.

The Patent Law clearly states in Article 1 point 3 of the Patent Law, that the inventor is one or several people, thus DABUS inventions are not included as non-patentable inventions written in Article 9 of the Patent Law because they do not conflict with laws and regulations, religion, public order, or morality. The DABUS invention is also not an examination, treatment, or surgery on humans and/or animals, theories and methods in the fields of science and
mathematics, living things, or biological processes. So if you look at it from an invention perspective, the DABUS invention actually deserves to be granted a patent.

The fifth part of the Patent Law states the rights and obligations of the patent holder. DABUS cannot exercise the rights of the patent holder as stated in Article 19 paragraph 1 letter a because he is not a human being so he cannot sell, import, lease, deliver, or even be willing to sell or rent the product that is granted a patent. However, DABUS can carry out the obligations of the patent holder as stated in Article 20, namely making the invention because DABUS does have adequate capabilities to make the invention.

Article 21 of the Patent Law regarding the obligation to pay annual fees also needs to be amended or revised, because it is impossible for an intelligence to pay the annual fees by itself without a guardian (in the case of DABUS, it can be assumed that the guardian of DABUS is the DABUS Inventor himself). Article 74 of the Patent Law states ways for DABUS to grant its patent rights to other parties, but before it can be transferred, of course, artificial intelligence must be considered an inventor. For this reason, according to the author, there is an urgency to immediately revise or make a new Patent Law so that it can mention artificial intelligence as an inventor or grant patents to inventions from artificial intelligence to maintain the motivation of artificial intelligence inventors so that they can continue to make other artificial intelligences.

Conclusion

Law enforcement on Intellectual Property Rights, namely regarding Film Piracy, has been regulated by Law Number 28 of 2014 concerning Copyright. In the Copyright Act, there are 2 ways to claim rights that have been violated, namely civil and criminal. Although there is already a law that regulates copyright, law enforcement against film piracy does not work properly because it is influenced by community and cultural factors, where many people still do not know and realize the importance of copyright.

References