

ABSTRACT

Invention in the pharmaceutical field that gave rise to the exclusive rights of the patent holder causing drug prices to be expensive. Safeguard TRIPs was no impact on the need for drugs that are needed for the prevention of epidemic diseases. Until finally born DOHA Declaration which gives flexibility to the drug patents through compulsory licensing or compulsory licensing which then in Indonesia Patents Act applied through the implementation of a patent by the government.

The problems are studied aiming to determine differences in the implementation of the patent term by the government (PPoP) and compulsory licensing as well as on the implementation of a patent by the government (PPoP) on antiviral and antiretroviral drugs in Indonesia in terms of the Patent Law and the DOHA Declaration.

This study is a descriptive analysis using a normative juridical approach is through the study of literature or studies on Law No. 14 of 2001 on Patents and DOHA Declaration.

Based on the results of compulsory licensing terms in the Doha Declaration is the implementation of a patent by the government (PPoP) in the Patent Law. Implementation of patents on antiviral drugs and antiretroviral in Indonesia through the Patent Act, Government Regulation No. 27 In 2004, Presidential Decree No. 76 of 2012 and Decree of the Minister of Health No. 109 / Menkes / SK / III / 2013 has been referred to the provisions of TRIPs and the Doha Declaration.

Keywords: Compulsory licensing, patent enforcement by the government, antiviral and antiretroviral drugs.

ABSTRAK

Invensi di bidang farmasi yang menimbulkan adanya hak eksklusif bagi pemegang paten menyebabkan harga obat-obatan menjadi mahal. *Safeguard TRIPs* pun tidak berdampak terhadap kebutuhan obat-obatan yang sangat dibutuhkan untuk penanggulangan penyakit epidemik. Hingga akhirnya lahir Deklarasi DOHA yang memberikan fleksibilitas terhadap paten obat melalui *compulsory licensing* atau lisensi wajib yang kemudian dalam Undang-Undang Paten Indonesia diterapkan melalui pelaksanaan paten oleh pemerintah.

Permasalahan yang dikaji bertujuan untuk mengetahui perbedaan istilah pelaksanaan paten oleh pemerintah (PPoP) dan *compulsory licensing* serta mengenai pelaksanaan paten oleh pemerintah (PPoP) atas obat antiviral dan antiretroviral di Indonesia ditinjau dari Undang-undang Paten dan Deklarasi DOHA.

Penelitian ini bersifat deskriptif analitis dengan menggunakan pendekatan yuridis normatif yaitu melalui studi kepustakaan atau kajian terhadap Undang-undang Nomor 14 Tahun 2001 tentang Paten dan Deklarasi DOHA.

Berdasarkan hasil istilah *compulsory licensing* dalam Deklarasi DOHA adalah pelaksanaan paten oleh pemerintah (PPoP) dalam Undang-undang Paten. Pelaksanaan paten terhadap obat antiviral dan antiretroviral di Indonesia melalui Undang-Undang Paten, Peraturan Pemerintah No. 27 Tahun 2004, Peraturan Presiden No. 76 Tahun 2012 dan Keputusan Menteri Kesehatan No. 109/MENKES/SK/III/2013 sudah mengacu pada ketentuan TRIPs maupun Deklarasi DOHA.

Kata Kunci : *Compulsory licensing*, pelaksanaan paten oleh pemerintah, obat antiviral dan antiretroviral.