



The Legal Consequences of Transferring Trade Secrets on Under Hand's Scheme


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Abstract

Introduction: Unauthorized transfer of trade secrets can harm the owner, cause financial loss, damage reputation and trigger legal action. In the era of globalization and technology, the transfer of trade secrets is increasingly urgent to be legally regulated. Legislation has been implemented in various countries to protect trade secrets, but the legal consequences vary. The repercussions involve financial loss, reputation, legal action and ethical business considerations.

Purposes of the Research: The purpose of this study is to investigate and analyze the process of identifying and handling the transfer of trade secrets under the hand in Indonesian legal practice. This study also aims to understand the legal consequences that apply to the perpetrators of private transfer of trade secrets in the Indonesian legal system.

Methods of the Research: This research uses normative legal research methods to analyze statutory regulations, court decisions, and legal literature related to the private transfer of trade secrets. A statutory approach helps understand the applicable legal framework. Data sources include various legal documents and legal literature, with data collection techniques focusing on document analysis and literature study. Data analysis involves identifying trends and legal implications of cases related to private transfer of trade secrets in the Indonesian legal context.

Results of the Research: The process of identifying and handling illegal transfers of trade secrets in Indonesia is an important step in protecting business and industry. It covers the steps from identification to prosecution, with reference to regulations such as the Trade Secret Act. Trade secrets must be confidential and have economic value. Prevention through internal security policies and employee training is also necessary. Perpetrators of the transfer of trade secrets may face civil, criminal and administrative actions in accordance with applicable law, with consequences including criminal sanctions, demands for compensation and confiscation of goods or documents. Protection is also given to whistleblowers in good faith. Internal policies, nondisclosure agreements, and consulting legal advisors are important for protecting trade secrets. All parties must understand and comply with the law to maintain business integrity in Indonesia.

1. INTRODUCTION

This can include product recipes, technologies, production methods, customer lists, and other information that gives the company a competitive advantage. The importance of trade secrets is that they allow companies to maintain a competitive advantage in their business, which is often a key factor in success. Trade secrets are a valuable asset to a company, and unauthorized transfer of trade secrets can have serious repercussions for their owners. In the era of globalization and advances in information technology, the transfer of trade secrets is increasingly becoming an urgent issue to be discussed and legally regulated. In this context, companies must ensure that their trade secrets remain confidential so that they do not fall into the hands of competitors or unauthorized third parties. However, when the transfer of trade secrets occurs under the hand, that is, without the owner's permission, questions arise about the legal consequences. A number of laws and regulations have been implemented in various countries to protect trade secrets. In the United States, for example, the Defense Trade Secrets Act provides legal protection against the unauthorized disclosure and use of trade secrets.

In Europe, the Trade Secrets Directive 2016/943/EU regulates aspects of the protection of trade secrets throughout the European Union. However, despite these regulations, the private transfer of trade secrets remains a complex and challenging issue in practice.¹ In the era of globalization and increasingly sophisticated information technology, the private transfer of trade secrets can have a detrimental impact on both the affected company and the economy as a whole.² The unauthorized transfer of trade secrets can have serious legal consequences. First of all, if current or former employees of a company disclose trade secrets to third parties or competitors, they may be involved in legal action. Companies may file lawsuits against individuals involved in the transfer of trade secrets, which may result in legal sanctions, such as financial damages or a ban from employment in the related industry. In addition, the company itself can also be subject to sanctions if it is proven that it is involved in the transfer of trade secrets.³ This can include large fines and serious reputational impacts for the company. Therefore, it is important for companies to have strong internal policies related to trade secrets and to provide training to employees regarding the importance of keeping information confidential.

One of the relevant regulations in this context is Law Number 30 of 2000 concerning Trade Secrets. This law provides legal protection for trade secrets, including the private transfer of trade secrets. Article 1 of this Law defines trade secrets as information that is not public, has economic value because it is confidential, and is kept confidential by its owner. With this regulation, companies have a strong legal basis to sue for violations of the transfer of trade secrets.⁴ Apart from that, the private transfer of trade secrets also has a direct impact on healthy and fair business competition. When trade secret information obtained illegally

¹ Monica Yesica Febrina, 'Perbandingan Hukum Rahasia Dagang Indonesia Dengan Amerika Serikat', *Jurnal Fakultas Hukum Universitas Indonesia*, 2.21 (2022).

² I Wayan Suarjana, 'Peran Hak Kekayaan Intelektual Dalam Membina Inovasi Dan Implikasi Hukum Bagi Badan Usaha', *Jurnal Cahaya Mandalika*, 4.3 (2023).

³ Carolina Audia Arfi, Noldy Mohede, and Kathellen C Pontoh, 'Perlindungan Terhadap Kepemilikan Rahasia Dagang Menurut Undang-Undang Nomor 30 Tahun 2000 Tentang Rahasia Dagang', *Lex Privatum*, 9.6 (2021), 73.

⁴ Syahriyah Semaun, 'Perlindungan Hukum Terhadap Rahasia Dagang', *DIKTUM: Jurnal Syariah Dan Hukum*, 9.1 (2011), 30-42.

is used by competitors, this can result in inequality in business competition.⁵ This is why regulations and legislation regarding the transfer of trade secrets are so important. In practice, the legal consequences of private transfer of trade secrets vary widely. First, companies that fall victim to the transfer of trade secrets can suffer significant financial losses. Trade secret information is often one of a company's most valuable assets, and if the information falls into the hands of competitors, the company can lose its competitive advantage.

In addition, the transfer of trade secrets can also damage a company's reputation, especially if the case becomes public attention.⁶ In addition to financial and reputational losses, the legal consequences of transferring trade secrets also include legal action that can be taken by companies that feel aggrieved. Companies can file lawsuits against former employees who are allegedly involved in the transfer of trade secrets. This lawsuit can result in financial compensation for companies that feel they have been harmed.⁷ Furthermore, relevant laws and regulations in this context are Article 42 of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. This article prohibits monopolistic practices and unfair business competition which can result in injustice in business competition. Transfer of trade secrets under the hand can be considered as a form of unfair business competition that harms legitimate competitors and customers.

The private transfer of trade secrets can also raise ethical questions in business. Business people, especially employees, have to face ethical dilemmas when they are faced with offers to disclose trade secret information of the companies where they work. Strong business ethics and a company culture that promotes integrity can play an important role in preventing the unauthorized transfer of trade secrets. The formulation of the problem related to this research can be formulated as follows: (1) What is the process for identifying and handling underhanded transfers of trade secrets in Indonesian legal practice?; (2) What legal consequences apply to perpetrators of underhanded transfer of trade secrets in the Indonesian legal system? Thus, research on the legal consequences of private transfer of trade secrets is very important in the context of legal protection for companies and the economy as a whole. It is hoped that this research will provide a deeper understanding of the legal impact of the transfer of trade secrets and can serve as a basis for improving relevant regulations and ethical business practices.

2. METHOD

This research will use normative legal research methods as the main approach. This normative method will be used to analyze and evaluate relevant laws and regulations, related court decisions, as well as legal literature related to the legal consequences of private transfer of trade secrets. This method allows the researcher to detail the existing legal framework and understand how applicable law might be applied in the context of the transfer of trade secrets. The legislative approach is an important basis for this research. The research will explore relevant laws and regulations in Indonesia related to trade secret protection, business competition and intellectual property law. An in-depth analysis will be

⁵ Andi Fahmi Lubis and others, *Hukum Persaingan Usaha*, 2017.

⁶ Velliana Tanaya, Jessica Vincentia Marpaung, and Audrea Dindya Djohan, 'Perlindungan Hukum Rahasia Dagang Dalam Perjanjian Franchise Cocoyo', *Refleksi Hukum: Jurnal Ilmu Hukum*, 5.2 (2021), 237-54 <<https://doi.org/10.24246/jrh.2021.v5.i2.p237-254>>.

⁷ Erlina, *Penegakan Hukum Kekayaan Intelektual* (Bandar Lampung: CV Anugrah Utama Raharja, 2013).

carried out on laws, government regulations and policies relating to the issue of private transfer of trade secrets. This approach will help understand the applicable legal framework and its impact on concrete cases. Sources of research materials will include various types of legal documents and legal literature. In this study, data collection techniques will include document analysis and literature study. Document analysis will involve searching and collecting laws and regulations, court decisions, and other related documents. The literature review will involve investigating relevant legal literature, including books, scientific articles, and expert views. The data obtained from these sources will be used to build arguments and answer research questions. Data analysis techniques in this study will involve document analysis, namely understanding and extracting relevant information from laws and regulations, court decisions, and collected legal literature. Content analysis will be used to identify trends, similarities, differences, and legal implications of cases related to the private transfer of trade secrets. Furthermore, the data that has been analyzed will be used to formulate conclusions and recommendations related to the legal consequences of the transfer of trade secrets under the hand in the context of Indonesian law.

3. RESULTS AND DISCUSSION

3.1 The Process for Identification and Handling of Underhanded Transfer of Trade Secrets in Indonesian Legal Practice

The process of identifying and handling the transfer of trade secrets under the hands of Indonesian law practice is important to protect the interests of business and industry.⁸ The transfer of trade secrets illegally can be detrimental to the company that owns the trade secret. In the context of Indonesian law, identification and handling of the transfer of trade secrets involves several steps and relevant laws and regulations, such as Law Number 30 of 2000 concerning Trade Secrets and several provisions in the Indonesian Civil Code (KUHPerdata). According to Article 1 paragraph (2) of the Trade Secrets Law, trade secrets refer to tangible or intangible information, which can take various forms, including knowledge, experience, business aspects, methods, procedures, plans, formulas, computer programs, bases data, systems, techniques, or teaching. To be categorized as a trade secret, the information must meet several important criteria. First, the information must be confidential, meaning it is not generally known or easily accessible to individuals operating within the same sector. Second, the information must have significant economic value due to its confidential nature, which makes it valuable to the owner. Third, trade secret owners must actively protect the information from disclosure to third parties who do not have the right to access it.⁹

The identification process begins with the company having to be aware of protecting its trade secrets. Identification of transfer of trade secrets can be done through internal and external monitoring.¹⁰ In some cases, companies may detect the transfer of trade secrets through unusual activity by employees or former employees, such as sudden resignations

⁸ Kharisma and Umar Mansur, 'Studi Hukum Dan Etika Bisnis Dalam Isu Pelanggaran Haki Di China', *Seniman Transactions on Management and Business*, 1.1 (2019).

⁹ Suzana Nashkova, 'Defining Trade Secrets in the United States: Past and Present Challenges – A Way Forward?', *IIC - International Review of Intellectual Property and Competition Law*, 54.5 (2023), 634–72 <<https://doi.org/10.1007/s40319-023-01310-1>>.

¹⁰ Dinda Angela Syafitri and I Gede Yusa, 'PENGALIHAN HAK DALAM RAHASIA DAGANG DITINJAU DARI UNDANG UNDANG RAHASIA DAGANG', *Kertha Semaya : Journal Ilmu Hukum*, 5.1 (2017).

or suspicious changes in behavior. Apart from that, companies can also involve internal or external auditors to assist in the identification process.

1) Evidence Collection

After identification, the company must gather evidence sufficiently strong to support claims of transfer of trade secrets. This can include internal documents, communication records, or electronic evidence demonstrating the transfer of trade secrets. Additionally, if there are suspicions that former employees or third parties are involved, the company can also collect evidence regarding their suspicious activities.

2) Providing Legal Protection

After identifying trade secrets, the next step is to provide legal protection. The Trade Secret Act provides legal protection to trade secret owners to prevent unauthorized disclosure or use by unauthorized parties. This includes the underhanded transfer of trade secrets. Article 6 of the Trade Secret Law stipulates that the owner of a trade secret has the exclusive right to determine who can access and use his trade secret.¹¹

3) Confidentiality Contract

One way to protect trade secrets is to use nondisclosure agreements (NDAs). These contracts are typically used when the trade secret owner shares confidential information with another party, such as an employee or potential business partner. A confidentiality contract binds the party receiving the information to maintain confidentiality and not use the information without the owner's permission. Article 10 of the Trade Secrets Law recognizes confidentiality contracts as a legitimate means of protection.¹²

4) Internal Investigations

If there are indications or suspicions that a trade secret has been stolen or transferred illegally, the owner of the trade secret can conduct an internal investigation. This may involve examining internal records, communications, or the activities of employees or other interested parties who have access to the trade secret. These investigations must be carried out in accordance with applicable law and individual rights must be respected.¹³

5) Reporting to the Authorities

If an internal investigation reveals evidence of unauthorized transfer of a trade secret, the owner of the trade secret can report the matter to the authorities. Article 15 of the Trade Secret Law states that unauthorized disclosure of trade secrets can be subject to criminal sanctions, including imprisonment and fines. Therefore, reporting these violations is an important step in addressing the transfer of trade secrets.

6) Civil Lawsuit Filing

In addition to reporting to the authorities, the owner of a trade secret can also file a civil lawsuit against a party suspected of transferring the trade secret. Article 18 of the Trade Secret Law grants the owner of a trade secret the right to file a civil lawsuit to seek damages for damages caused by a trade secret infringement.¹⁴

7) Settlement through mediation or negotiation

¹¹ Indriyana Dwi Mustikarini, 'Perlindungan Hukum Rahasia Dagang Terhadap Masyarakat Ekonomi Asean (MEA)', *Perspektif Hukum*, 2016, 75-88 <<https://doi.org/10.30649/ph.v16i1.44>>.

¹² Dewi Sulistianingsih and Andry Setiawan, *Rahasia Dagang Dalam Perspektif Hak Kekayaan Intelektual* (Semarang: BPFH UNNES, 2020).

¹³ Dody Safnul, 'Perlindungan Rahasia Dagang Dari Tindakan Persaingan Curang', *Jurnal Warta*, 2018.

¹⁴ Masjupri, *Perlindungan Hak Kekayaan Intelektual Di Indonesia* (Yogyakarta: Gerbang Media Aksara, 2022).

Before choosing to proceed to a more formal legal process, the parties involved in the transfer of trade secrets may try to resolve the dispute through mediation or negotiation. The mediation process can help reach an amicable agreement that benefits all parties without the need to involve a court.¹⁵

8) Further Legal Actions

If mediation or negotiations are unsuccessful, the company may choose to take legal action through the courts. The legal process will involve filing a civil lawsuit against the party allegedly involved in the transfer of trade secrets. In litigation, the company must present strong evidence to support its claim. In addition to taking action after the transfer of the trade secret, the owner of the trade secret also needs to make further prevention efforts. This includes implementing internal security policies, training employees on the importance of maintaining confidentiality, and monitoring potentially risky activities related to trade secrets. Prevention is key to avoiding future trade secret transfer incidents.

In the process of legal action, the relevant laws and regulations are Law Number 30 of 2000 concerning Trade Secrets. This law regulates the protection of trade secrets and provides a legal basis for companies to protect their trade secrets. One important aspect of this law is that courts can issue injunction orders to prevent further transfer of trade secrets during the judicial process. This is regulated in Article 6 of the Trade Secret Act. One important aspect of this law is that courts can issue injunction orders to prevent further transfer of trade secrets during the judicial process. This is regulated in Article 6 of the Trade Secret Act: 1) Enforcement of Court Decisions: If the company wins the case in court, the court will issue a decision ordering the party allegedly involved in the transfer of trade secrets to stop the activity and possibly provide compensation or compensation to the company that suffered losses due to the transfer;¹⁶ 2) Prevention of Transfer of Trade Secrets in the Future: Once a case is resolved, companies must remain vigilant to prevent the transfer of trade secrets in the future. This can be done through improvements in trade secret management, employee training on the importance of maintaining confidentiality, and implementing strict security policies; 3) Additional Monitoring and Security: In addition to the steps above, companies can also improve monitoring and security regarding their trade secrets. This can involve the use of security technologies such as firewalls, encryption, and sophisticated network security systems. Companies may also implement policies that limit employee access to trade secret information to only a necessary level; 4) Cooperation with the Authorities: In some cases, companies may cooperate with authorities such as police or prosecutors to investigate suspected transfers of trade secrets. This may involve a criminal investigation if the transfer involves a more serious violation of law;¹⁷ 5) Market Monitoring: Companies may also conduct market monitoring for signs of use or sale of their trade secrets by other parties. This involves monitoring competitors and the market to ensure that trade secrets are not misused.

It can be understood from the explanation above that the process of identifying and handling illegal transfers of trade secrets in Indonesian legal practice involves several important steps, including identification, termination, collection of evidence, consultation

¹⁵ Devi Siti Hamzah Marpaung Maurid Rizki, 'Efektivitas Alternatif Penyelesaian Sengketa Dalam Sengketa Rahasia Dagang', *University of Bengkulu Law Journal*, 6.2 (2021), 163-77.

¹⁶ Khoirul Hidayah, *Hukum Hak Kekayaan Intelektual* (Malang: Setara Press, 2017).

¹⁷ Krisnani Setyowati and others, *Kantor HKI-IPB Kantor Hak Kekayaan Intelektual Institut Pertanian Bogor* (Bogor: Institut Pertanian Bogor, 2005).

with legal counsel, and, if necessary, legal prosecution. Relevant laws and regulations, such as the Trade Secret Act and the Copyright Act, provide a legal framework to protect trade secrets and give owners the right to sue for infringement. It is important for companies to understand and comply with these rules when dealing with the transfer of trade secrets to protect their interests and maintain the integrity of their trade secrets.

3.2 The Legal Consequences for Perpetrators of Underhand Transfer of Trade Secrets in the Indonesian Legal System

Underhand transfer of trade secrets is an action that involves theft, copying, or disclosing trade secret information of a company to another party without permission or approval from the owner.¹⁸ In the Indonesian legal system, this action can have serious legal consequences. These consequences can include civil and criminal actions, and involve various relevant laws and regulations. In the following series of paragraphs, we will explain further the legal consequences for perpetrators of private transfer of trade secrets in the Indonesian legal system.

1) Protection of Trade Secrets in Indonesia

Before discussing the legal consequences for the perpetrators of the transfer of trade secrets, it is important to understand that Indonesia has a legal framework that regulates the protection of trade secrets. One of the main laws governing this is Law Number 30 of 2000 concerning Trade Secrets (hereinafter referred to as the Trade Secret Law). The Trade Secrets Law provides legal protection for confidential information that has economic value, which is kept secret by its owner, and the subject matter is referred to as a trade secret.¹⁹

2) Trade Secret Violations in the Trade Secret Law

Violation of private trade secrets is regulated by Article 14 of the Trade Secret Law. This article states that anyone who, without rights or permission, intentionally discloses, uses, or takes trade secrets from people who have trade secrets can be subject to legal sanctions. This violation can be carried out by individuals, companies or other parties who do not have the right or permission to access the trade secret.²⁰

3) Legal Consequences for Perpetrators of Underhand Transfer of Trade Secrets

When a person or entity violates Article 14 of the Trade Secrets Law by transferring trade secrets privately, there are several legal consequences that can be applied in accordance with the laws in force in Indonesia.

a) Criminal sanctions

The perpetrators of the transfer of trade secrets can be subject to criminal sanctions in accordance with Article 15 of the Trade Secret Law. This article states that anyone who violates Article 14 may be subject to imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp. 2,000,000,000.- (two billion rupiahs). This penalty will be imposed on individuals or entities found guilty of transferring trade secrets. Law Number 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as the PT Law) can be a reference in this matter. Article 98 of the Company Law regulates

¹⁸ J. Contreras, *Pengantar Lisensi Kekayaan Intelektual. Dalam Lisensi Dan Transaksi Kekayaan Intelektual: Teori Dan Praktek* (Cambridge: Pers Universitas Cambridge, 2022).

¹⁹ Akram Sri Nerendro Tomo and Burhanudin Burhanudin, 'Tinjauan Yuridis Pasal Pemidanaan Bagi Pelanggar Rahasia Dagang Dalam Undang-Undang Nomor 30 Tahun 2000 (Judicial Review Article Of Punishment For Violators Of Trade Secrets In The Law Number 30 Year 2000)', *JOURNAL OF LEGAL RESEARCH*, 2.1 (2020) <<https://doi.org/10.15408/jlr.v2i1.16168>>.

²⁰ Febrina.

criminal acts related to the use of trade secret information for personal gain or for other parties that harm the company. If perpetrators engage in the intentional and unauthorized disclosure or use of trade secrets, they may be subject to criminal sanctions, which can include imprisonment and/or fines. Apart from the Company Law, other relevant laws and regulations are Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as the ITE Law).

The ITE Law has articles that can be used to punish acts involving the transfer of trade secrets electronically or through electronic communications. For example, Article 30 of the ITE Law regulates the illegal collection of electronic data that can be subject to criminal sanctions. If perpetrators use electronic means to steal or disclose company trade secrets, they can be charged with criminal acts under the ITE Law. If the perpetrator of a trade secret violation does not stop the violation after a court order or injunction is given to the owner of the trade secret, then the perpetrator may be faced with further criminal prosecution in accordance with Article 18 of the Trade Secrets Law. These charges can result in additional sanctions for the perpetrator, including heavier fines or longer prison terms.

b) Compensation

In addition to criminal sanctions, the Trade Secret Law also gives rights to owners of trade secrets to demand compensation from the perpetrators of violations. Article 16 of the Trade Secret Law states that the owner of a trade secret who suffers losses as a result of violations can claim compensation. These damages may cover actual damages suffered by the owner of the trade secret, including financial loss, reputational damage and other demonstrable damages.

c) Foreclosure and Confiscation

Meanwhile, Article 18 of the Trade Secrets Law gives the authorities the authority to confiscate or temporarily confiscate goods or documents related to trade secret violations. This aims to prevent the infringer from continuing to use or disclose the infringed trade secret. This temporary confiscation or confiscation can be implemented if there is sufficient evidence of the violation committed.

d) Civil Actions

In addition to criminal sanctions and compensation, trade secret owners can also take civil action by filing a civil lawsuit against the perpetrator of the violation. This civil action can take the form of a request for injunction to stop the use or disclosure of a trade secret, a request for the removal of a product from the market, or a claim for compensation for losses suffered by the owner of the trade secret. One of the relevant laws and regulations in this context is Law Number 30 of 2000 concerning Trade Secrets (hereinafter referred to as the Trade Secret Law). Article 13 of the Trade Secrets Law regulates legal protection for trade secret holders who feel their rights have been violated. The holder of a trade secret may file a civil lawsuit against the perpetrator of the transfer of the trade secret to obtain compensation for losses that have been suffered as a result of the violation.

These civil lawsuits could potentially result in the recovery of financial losses and compensation to trade secret holders. In the civil context, it is important to note that the Trade Secrets Law provides broad protection to trade secret holders. Article 1 paragraph (1) of the Trade Secret Law defines a trade secret as information that is not public, has economic value because it is secret, and is kept confidential by the holder. Therefore, if someone discloses or uses information that meets these criteria without permission, they may be deemed to have violated the Trade Secret Act and may be

subject to civil law action. In addition, in cases where the perpetrator of the transfer of trade secrets is an employee or former employee of the company, the legal consequences that can be faced include acts of breach of employment contract. Employment contracts usually include clauses regarding non-competition and trade secret protection. If an employee violates these clauses, the company may take legal action against that employee. This consequence is regulated by Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Law). Article 153 of the Manpower Law regulates violations of employment contracts by employees which can result in the termination of the employee.

Furthermore, if the perpetrator of the transfer of trade secrets is a foreign citizen or foreign company, the legal consequences that can be faced may also involve immigration law. The Indonesian government has the authority to revoke the residence permits or visas of foreigners involved in illegal acts in Indonesia. This is regulated in Law Number 6 of 2011 concerning Immigration (hereinafter referred to as the Immigration Law). Article 75 of the Immigration Law regulates the revocation of residence permits or visas in cases of legal violations committed by foreigners.

4) The Legal Protection for Reporters of Trade Secret Violations

It is important to note that the Trade Secret Act also provides legal protection to those who report trade secret violations. Article 19 of the Trade Secret Law states that anyone who reports a trade secret violation in good faith will not be prosecuted or subject to legal sanctions for the report. This aims to encourage individuals to report trade secret violations and provide protection to whistleblowers.

In order to respond to trade secret transfer violations and avoid serious legal consequences, companies can take several preventive measures. First, the company must have a strong internal policy that regulates the security and protection of trade secret information. This policy should include steps to limit access to trade secret information to employees who require such access and to ensure that employees understand their obligations in maintaining the confidentiality of such information.²¹ Second, companies may require employees to sign confidentiality agreements or non-compete clauses as part of their employment contracts. In this agreement, employees agree not to disclose or use company trade secret information for personal or other parties' interests that are detrimental to the company. Third, companies can monitor the activities of employees who have access to trade secret information, especially if they decide to move to another company or become a competitor. In this case, the company can take legal action if there is evidence of the transfer of trade secrets. Fourth, companies can also engage legal counsel or legal consultants experienced in corporate law to help design and implement effective trade secret protection strategies.²²

In conclusion, private transfer of trade secrets can have serious legal consequences in the Indonesian legal system. Perpetrators of trade secret transfers may face civil, criminal, and administrative actions, depending on the extent to which such actions violate applicable laws and regulations. Therefore, it is important for companies to properly safeguard and

²¹ Oleh Millytia and Fabiola Gabriela, 'Perlindungan Hukum Terhadap Rahasia Perusahaan Dalam Menghadapi Persaingan Bisnis Di Indonesia 1 Oleh: Millytia Fabiola Gabriela Salmon 2', *Lex Privatum*, 7.4 (2019), 88–98.

²² Sudjana and Ria Sutarko, 'Klausul Non-Kompetisi Dalam Perjanjian Kerja Dikaitkan Dengan Prinsip Kerahasiaan Perusahaan Dalam Perspektif Hak Untuk Memilih Pekerjaan Berdasarkan Hukum Positif Indonesia', *Jurnal Al Amwal*, 1.1 (2018), 90–100.

protect their trade secrets and have appropriate policies and agreements in place to prevent violations. If companies feel their rights have been violated, they can take legal action to obtain compensation and punish the perpetrator of the violation.

4. CONCLUSION

In Indonesian legal practice, the process of identifying and handling the private transfer of trade secrets is very important to protect business and industrial interests. This process involves a series of steps, from identification to legal prosecution if necessary, with reference to relevant laws and regulations such as the Trade Secrets Act. Trade secrets must meet several important criteria, including being confidential and having significant economic value. Deterrence also has an important role to play in protecting trade secrets in the future, including through internal security policies and employee training. At all stages, professionalism and in-depth understanding of Indonesian law are key to maintaining trade secret integrity and protecting company interests. Underhand transfer of trade secrets in the Indonesian legal system has significant legal consequences. Perpetrators of the transfer of trade secrets may face civil, criminal and administrative action, in accordance with applicable laws and regulations, including the Trade Secrets Law. These consequences include criminal sanctions with the threat of imprisonment and fines, demands for compensation by the trade secret owner, as well as confiscation or temporary confiscation of related goods or documents. Legal protection is also provided to those who report trade secret violations in good faith. To avoid serious legal consequences, companies must have strong internal policies, confidentiality agreements, and be able to engage legal counsel to design effective trade secret protection strategies. Thus, it is important for all parties to understand and comply with applicable laws in the context of the transfer of trade secrets to maintain the integrity of business and industry in Indonesia.

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