
Legal Protection of Trade Secrets in a Business Portfolio Against Misuse by Former Employees: An Analysis of Judgment No. 1035/Pdt.G/2022/Pn.Jkt.Pst

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Abstract

Keywords

legal protection; Unlawful Acts; Trade Secrets

In the rapidly evolving digital economy, business information such as marketing strategies, product designs, customer databases, and project portfolios possesses significant economic value due to its capacity to provide competitive advantages for business actors. This study analyzes the legal protection of Trade Secrets concerning the Van Houten Portfolio owned by PT Flux Asia Solusindo, which was unlawfully used by its former employee, as well as examines the application of law by the judges in Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst. This research employs a normative juridical method using a statutory and case approach. The findings indicate that the defendant's actions fulfilled the elements of trade secret infringement as stipulated under Article 13 of Law Number 30 of 2000 on Trade Secrets, as well as the elements of an unlawful act pursuant to Article 1365 of the Indonesian Civil Code. However, the judges' consideration, which relied solely on Article 1365 of the Civil Code as the legal basis for the decision, does not fully reflect the application of the principle of *lex specialis derogat legi generali*, whereby specific legal provisions should prevail over general provisions.

INTRODUCTION

In the digital economy era, business information such as marketing strategies, product designs, customer databases, and project portfolios has high economic value because it can provide a competitive advantage for business actors (World Intellectual Property Organization, 2023; Organisation for Economic Co-operation and Development, 2022; World Bank, 2021; World Trade Organization, 2022; Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2020). In the midst of increasingly fierce business competition in the digital era, the protection of trade secrets is very important in the intellectual property legal system (Correa, 2019; Maskus, 2020; Sari, 2021; WIPO, 2023; OECD, 2022).

Trade secrets include various business and technology information that has economic value, such as production formulas, marketing strategies, sales methods, and brand portfolios (Jorda, 2018; Lemley, 2019; Maskus, 2020; WIPO, 2023; WTO, 2022). The information is vulnerable to various forms of breaches, including theft and data leaks, which can result in financial losses, a decline in the company's reputation, and a decrease in consumer trust (Anderson, 2021; IBM, 2024; Verizon, 2024; OECD, 2022; PwC, 2023).

The form of state awareness of the importance of protecting trade secrets began in 1986 when Indonesia and 125 countries signed the declaration of the Pacta Del Este Final Act

Uruguay Round, which became the forerunner of the establishment of the World Trade Organization (WTO) (WTO, 1994; Correa, 2019; Drahos, 2016; WIPO, 2023; Kemenkumham, 2020). In the series of agreements there is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), which obliges member countries, including Indonesia, to harmonize their legal frameworks concerning intellectual property rights (WTO, 1994; Gervais, 2020; Correa, 2019; WIPO, 2023; Kemenkumham, 2020). The establishment of these regulations aims to provide legal protection for creators, inventors, and owners of intellectual works so that their creativity and innovation obtain legal certainty and decent economic value (Drahos, 2016; Gervais, 2020; WIPO, 2023; WTO, 2022; World Bank, 2021).

Trade secrets are a form of intellectual property (IP) that has different characteristics from other types of IP. Trade Secret Protection is not based on registration but on the ability of the owner to keep the information confidential and of economic value (Castellaneta et al., 2017; Santiago, 2017; Vecellio Segate, 2020). In particular, Trade Secrets are regulated in Law Number 30 of 2000 concerning Trade Secrets which in Article 1 number 1 provides the definition of Trade Secrets as information that is not known to the public in the field of technology and/or business, has economic value because it is useful in business activities and is maintained confidential by the owner of the Trade Secret. So it can be concluded that Trade Secrets are very valuable information and must be protected (May, 2015; Parr, 2018).

Trade secrets have economic value because of their confidentiality and are maintained confidential through appropriate efforts. The information is considered confidential if it is not known to the public or is only known to a limited extent by certain parties, both those who discover it and those who use it for activities that generate profits or commercial interests. Information is considered to have economic value if with its confidential status, the information can be used to carry out commercial activities or businesses and increase economic profits. Information is considered to be kept confidential if the owner or the parties who control it have made efforts to protect it through appropriate and adequate measures to maintain and maintain its confidentiality and control (Dagher et al., 2018; Petronio & Reiersen, 2015).

Information is considered to have economic value if the confidentiality of the information can be used to carry out commercial activities or businesses or can increase economic profits. The scope of Trade Secret protection is in accordance with the provisions of Article 2 of Law Number 30 of 2000 concerning Trade Secrets including production methods, processing methods, sales methods, or other information in the field of technology and/or business that have economic value and are not known to the general public. Thus, it can be seen how a trade secret becomes a very important asset to be kept confidential for a company.

Information that is included in Trade Secrets has benefits in business activities, as well as providing a competitive advantage for its owners. This information can be in the form of production methods, formulas, marketing strategies, customer lists, business data, or other technical information that contributes to the success of a company. Because it has economic value, the information must be kept confidential through reasonable and adequate measures, such as the implementation of non-disclosure agreements, restrictions on access to certain information, and the security of company documents and data.

Protection of trade secrets is important because disclosure or unauthorized use by other parties can cause material and immaterial losses to the owner, including loss of business advantage and decreased competitiveness in the market. Therefore, trade secrets obtain legal

protection so that the rights and interests of the owner of the information are guaranteed. According to Satjipto Rahardjo, legal protection is providing protection for human rights (HAM) that are harmed by others and that protection is given to the community so that they can enjoy all the rights provided by the law.

Various countries have developed regulations to strengthen the protection of trade secrets as a form of protection against innovation and healthy business competition. One important development is the strengthening of legal mechanisms against misappropriation that provides broader protection to the owners of trade secrets. Garrison explained that increased legal protections are necessary for companies to have effective instruments in dealing with the unlawful collection and use of confidential information.

Legal protection of trade secrets also has a great effect on foreign investors who want to invest in Indonesia. If trade secrets are not legally protected so that they cause secret leakage and result in losses, investors will never be interested in investing in Indonesia in the form of Foreign Investment (FDI).

Article 3 paragraph (1) of Law No. 30 of 2000 stipulates that Trade Secrets are protected if the information is confidential, has economic value, and is maintained confidential through appropriate efforts. In the Explanation of Article 3 of Law Number 30 of 2000, it is stated that what is meant by "due effort" is all steps that contain measures of fairness, feasibility, and propriety that must be carried out.

According to Rachmadi Usman, steps that contain reasonableness, feasibility and propriety must be carried out, for example, a company must have standard procedures based on general practices that apply in common places that apply in other places and or be outlined in the internal provisions of the company concerned. Similarly, in a company it can be determined how trade secrets are maintained and who is responsible for that confidentiality.

Provisions related to trade secret violations are explicitly regulated in Law Number 30 of 2000 concerning Trade Secrets, especially through Article 13 and Article 14, as follows: Article 13 of Law Number 30 of 2000 concerning Trade Secrets: 1) "A trade secret violation also occurs when a person deliberately discloses trade secrets, reneges on an agreement or denies a written or unwritten obligation to maintain the trade secrets concerned". 2) Article 14 of Law Number 30 of 2000 concerning Trade Secrets: 3) "A person is considered to have violated the trade secrets of another party if he obtains or controls such trade secrets in a manner that is contrary to the applicable laws and regulations".

The case of misuse of the Van Houten Kitchen portfolio owned by PT. Flux Asia Solusindo by Fuad Fajar Samudra, former Art Director of PT. Flux Asia Solusindo, and PT. Jelajah Andalima Indonesia, is a clear example of this problem, as reflected in Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst. Fuad Fajar Samudra, who is bound by the Indefinite Time Work Agreement Number 027/PKWTT-FLUX/II/2020, is suspected of violating Article 13 of the Trade Secrets Law by deliberately using and disclosing the trade secrets for project tenders, which meets the elements of unlawful acts based on Article 1365 of the Civil Code. However, the judge's considerations tend to focus on the general aspects of civil matters without explicitly attributing the special norm of trade secrets as *lex specialis*, as well as limiting damages only to immaterial losses without adequately considering material losses.

Previous research has generally addressed the protection of trade secrets against product formulas, customer data, business strategies, or product methods. However, there are still few

who specifically examine the legal status of portfolios as objects of trade secrets, and examine the relationship between the trade secret legal regime and the unlawful act regime in resolving disputes over the misuse of digital portfolios by former workers.

For this reason, this study will discuss how the legal protection of the Van Houten Kitchen portfolio as a trade secret based on Law No. 30 of 2000, and whether the judge's consideration in Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst which uses Article 1365 of the Criminal Code is in accordance with the principle of *lex specialis* in the protection of trade secrets.

Intellectual Property (IP) is a right born from the intellectual ability of humans to produce works, innovations, or creations that have economic value even though they are not physically tangible. Forms of Intellectual Property include copyrights, trademarks, patents, industrial designs, trade secrets, and integrated layout designs. Protection of Intellectual Property has an important role in providing legal certainty to rights owners, as well as encouraging the growth of innovation, creativity, and competitiveness in economic and trade activities, both at the national and international levels. In Indonesia, Intellectual Property protection is regulated in various laws and regulations in accordance with international commitments, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), which emphasizes the importance of rewarding and protecting the results of thought, effort, time, and costs that have been incurred by the creator or rights owner.

One of the branches of Intellectual Property that has obtained legal protection is Trade Secrets. The regulation is specifically contained in Law Number 30 of 2000 concerning Trade Secrets. Based on Article 1 number 1 of the law, Trade Secrets are information in the field of technology and/or business that is unknown to the general public, has economic value because it can be used in business activities, and is kept confidential by the owner or the party who controls it.

"As appropriate" efforts as referred to in Article 3 of Law Number 30 of 2000 concerning Trade Secrets include all actions that are carried out in a reasonable, feasible, and appropriate manner to maintain the confidentiality of information that has the value of trade secrets. These actions include the implementation of standard procedures in accordance with business practices commonly used in the business world, as well as their regulation in the company's internal policies or regulations. In addition, companies need to establish clear mechanisms regarding trade secret protection procedures, including the appointment of parties responsible for maintaining and supervising the confidentiality of such information.

The Trade Secret Protection provided by the State essentially stems from a civil relationship between the owner of the Trade Secret and the holder of the Trade Secret or the further recipient of the Trade Secret rights in the form of a Trade Secret license with third parties who do not have the right to carry out (legal) actions that commercially exploit the Trade Secret, including those who improperly provide Trade Secret information, and who obtain it contrary to the law.

Protection of trade secrets is provided because this information can be a source of competitive advantage for business actors. The information that can be categorized as trade secrets includes product formulas or recipes, production methods and processes, customer data, marketing strategies, business management techniques, and business planning that have economic value and are not freely available to the public.

Unlike other types of Intellectual Property, such as patents, trademarks, industrial designs, trade secret protection does not require registration because it is automatic as long as the information meets the elements of confidentiality, economic value, and there are efforts to maintain its confidentiality. However, in the case of transfer of rights through licensing, registration with the Directorate General of Intellectual Property (DJKI) is required to provide legal certainty for third parties. Infringement of trade secrets can be unauthorized disclosure, unauthorized use, or acquisition of information in a manner that is contrary to the law.

A trade secret violation also occurs when a person intentionally discloses confidential information, reneges on an agreement, or violates a written or unwritten obligation to maintain such confidentiality. A person is considered to be an infringer if he obtains or controls trade secrets in a way that is contrary to laws and regulations.

A trade secret violation occurs when a person deliberately discloses trade secrets, reneges on an agreement or denies a written or unwritten obligation to maintain trade secrets. A person is considered to have violated the trade secrets of another party if he obtains or controls the trade secrets in a manner that is contrary to the applicable laws and regulations. Such an act is not considered a violation when: 1) The act of disclosing trade secrets or using trade secrets is based on the interests of defending public security, health or safety. 2) The act of re-engineering of a product resulting from the use of another person's trade secret is carried out solely for the sake of further development of the product in question.

Any act of use, disclosure, or communication without the consent of the owner by a person who knows that it is kept secret, is an act of violation of the law. A trade secret violation also occurs when a person deliberately discloses trade secrets, reneges on an agreement or denies a written or unwritten obligation to maintain the trade secrets concerned. A person is considered to have violated the trade secrets of another party if he obtains or controls the trade secrets in a manner that is contrary to the applicable laws and regulations.

An Employee who previously had access to sensitive information belonging to the company may use the knowledge they have acquired for personal gain or to join a competitor. Not only can this action lead to significant financial losses, but it can also damage a company's reputation and reduce consumer confidence.

However, if the owner of trade secrets deliberately discloses the information so that it can be freely accessed by the public, then the nature of the confidentiality is considered lost because it no longer meets the confidentiality criteria. When the owner becomes aware of the illegal use by another party, the owner is obliged to prove that the use is illegal, which may cause commercial or economic losses to the owner of the trade secret.

According to M.A. Moegini Djodjodirdjo, an act can be considered an unlawful act if: 1) Contrary to the rights of others is contrary to the authority derived from a rule of law, where what is recognized in jurisprudence, is recognized are personal rights such as the right to liberty, the right to honor and the right to property. 2) Contrary to its own legal obligation is to act or neglect contrary to the laws or prohibitions specified in the laws and regulations 3) Violating good morality is the act or controlling something that is contrary to the norms of morality, as long as these norms are accepted as unwritten legal rules by the association. 4) Contrary to the rules that are heeded is contrary to something that according to unwritten law must be heeded in society.

Unlawful acts committed by a person will result in losses to others, and according to the provisions of Article 1365 of the Civil Code, the party whose actions cause harm to others are responsible for providing compensation.

Civil liability is a fundamental principle in civil law that functions as a means to provide justice and protection to parties aggrieved by the actions of other parties. More broadly, civil liability includes not only the obligation to provide damages, but also ensures that any individual or legal entity that causes harm to others must be held accountable for its actions.

The novelty of this research lies in its specific examination of the legal status of business portfolios as trade secret objects and its critical analysis of the judiciary's failure to apply *lex specialis* principles in Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst. This research distinguishes itself by focusing specifically on the intersection between trade secret protection under Law Number 30 of 2000 and the general unlawful act provisions under Article 1365 of the Civil Code, examining how judges should prioritize specific provisions over general provisions in trade secret disputes. The research purpose is to analyze the legal protection afforded to the Van Houten Kitchen portfolio as a trade secret and to evaluate whether the judge's consideration in Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst aligns with the *lex specialis derogat legi generali* principle in trade secret protection.

The purpose of the application of civil liability is to restore the condition of the aggrieved party to return to its original state (*restitutio in integrum*) or to provide compensation proportionate to the losses that have been experienced. Thus, the civil liability mechanism has an important role in the legal system because it functions as an instrument to realize justice and provide protection for the rights of the injured party.

Civil liability is a fundamental principle in civil law that functions as a means to provide justice and legal protection to parties harmed by the actions of other parties. More broadly, civil liability includes not only the obligation to provide damages, but also ensures that any individual or legal entity that causes harm to others must be held accountable for its actions

METHOD

This research used a normative juridical research method, which is legal research conducted by examining legal norms contained in laws and regulations, court decisions, doctrines, and other legal materials related to the problem being studied. The focus of this research is to examine the legal protection for the misuse of trade secrets in the form of the Van Houten Kitchen portfolio based on positive legal provisions that apply in Indonesia.

The approaches used in this study are the statute approach and the case approach. The legislative approach is carried out by examining various relevant legal provisions, including Law Number 30 of 2000 concerning Trade Secrets, the Civil Code, especially Article 1365, as well as other laws and regulations related to intellectual property protection. The case approach was carried out through an analysis of the Central Jakarta District Court Decision Number 1035/Pdt.G /2022/PN.Jkt.Pst in order to find out the legal protection of trade secrets used without rights by former workers as well as the judge's consideration in deciding related trade secret disputes.

The technique of collecting legal materials is carried out through library research by inventorying, identifying, and reviewing various literature and legal documents that are relevant to research problems. Furthermore, the collected legal materials are analyzed using

the qualitative analysis method, namely by describing and interpreting the applicable legal provisions and relating them to the legal facts revealed in the court decision. The results of the analysis were then presented in a descriptive-analytical manner to obtain conclusions about the form of legal protection against the misuse of Van Houten Kitchen's portfolio as a trade secret and the suitability of the judge's consideration with the provisions of Law Number 30 of 2000 concerning Trade Secrets.

RESULTS AND DISCUSSION

Legal Protection of Van Houten Kitchen's Portfolio as Trade Secrets

In the case of violation of trade secrets in the form of misuse of the van Houten Kitchen portfolio carried out by former employees of PT. Flux Asia Solusindo in Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst. The judge used Article 1365 of the Civil Code as a legal basis to provide protection and restoration of the rights of the aggrieved party.

In this case, the Panel of Judges stated that Fuad Fajar Samudera (Defendant I) and PT. Jelajah Andalima Indonesia (Defendant II) was proven to have committed an unlawful act by using and abusing a portfolio which was a trade secret owned by PT. Flow Asia Solusindo. Defendant I previously worked as an Art Director for the plaintiff's company and had access to confidential information during the employment relationship. After the employment relationship ended, Defendant I continued to use the information for the business interests of PT. Jelajah Andalima Indonesia (Defendant II).

The Panel of Judges based its consideration on the fact that the portfolio and design of the van Houten Kitchen Portfolio met the elements of trade secrets, namely having economic value, not known to the public, and kept confidential by the owner. In addition, the use of the portfolio violates the provisions of Article 7 paragraphs (1), (2), and (5) of the Indefinite Time Work Agreement (PKWTT) Number 027/PKWTT-FLUX/II/2020, which expressly requires workers to maintain the confidentiality of company information even after the employment relationship ends.

To assess the existence of unlawful acts, the Judge referred to the provisions of Article 1365 of the Civil Code (KUHPercivil) which states that every unlawful act that causes harm to others requires the perpetrator to compensate for the loss. Based on this provision, there are four elements that must be met, namely: (1) the existence of unlawful acts, (2) errors, (3) losses, and (4) causal relationships between acts and losses.

1. Elements of Unlawful Acts, a form of unlawful acts committed by Fuad Fajar Samudra (a former employee of Art Director of PT. Flux Asia Solusindo) and PT. Jelajah Andaliman Indonesia, is an act that deliberately without permission uses trade secrets in the form of the Van Houten Kitchen portfolio for the purpose of tendering PT. Gemilang Indofa Construction.
2. The element of error (Schuld), the element of error in this case is shown by the intentional violation of the legal obligations contained in Article 7 paragraphs (1), (2) and (5) of the Indefinite Time Work Agreement Number 027/PKWTT-FLUX/II/2020, which requires employees to maintain the confidentiality of confidential information and not to use confidential information for their own interests and profits, without the consent of the company.

3. The Element of Loss, the Panel of Judges considered that the Defendants' actions caused losses to the Plaintiffs, especially immaterial losses related to the company's reputation, trust, and business interests. Misuse of portfolios by former employees for the benefit of other businesses has the potential to reduce the Plaintiff's image and competitiveness. In his decision, the Judge stipulated immaterial damages of Rp35,000,000.00 as a form of compensation for the losses suffered by the Plaintiff.
4. Causal Verband, the element of causal relationship can be seen from the direct relationship between the Defendants' actions and the losses suffered by the Plaintiff. The immaterial losses determined by the Panel of Judges are a direct result of the use of trade secrets without permission. Without these acts, the losses suffered by the Plaintiff would not have occurred. Therefore, there is a clear causal relationship between the actions of the Defendants and the losses suffered by the Plaintiffs.

In Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst, the Panel of Judges provided legal protection to PT Flux Asia Solusindo as the owner of trade secrets for the misuse of the Van Houten Kitchen portfolio carried out by its former workers with PT Jelajah Andaliman Indonesia, by stating that the defendants' actions constituted an unlawful act based on Article 1365 of the Civil Code because they had used the plaintiff's business portfolio without rights and caused losses to the owner of the information.

The application of Article 1365 of the Civil Code in the case can basically be understood because the elements of unlawful acts have been met, namely the existence of unlawful acts, mistakes, losses, and causal relationships between the defendant's actions and the losses suffered by the plaintiff. Former workers as Art Directors previously gained access to company information through employment relationships, then after the employment relationship ended using the portfolio for the benefit of another company. This condition indicates the act of using information belonging to the company without the owner's consent.

In Decision Number 1035/Pdt.G/2022/PN.Jkt.Pst, the Panel of Judges, which based its consideration on Article 1365 of the Civil Code, provided legal protection to the owner of trade secrets, namely PT Flux Asia Solusindo, through the application of civil liability to parties who misused the Van Houten Kitchen portfolio. This protection is realized through the provision of compensation, the termination of the use of confidential information, and the prohibition for the defendant to re-utilize the plaintiff's business information without rights.

First, the form of legal protection provided in this case is realized through the recovery of losses in the form of providing compensation. Based on the principle of civil liability, any party who commits an unlawful act and causes losses to other parties is obliged to compensate the aggrieved party. In the a quo case, the Panel of Judges held that the actions of former workers who used the Van Houten Kitchen portfolio for the benefit of other parties had caused losses to the company as the owner of trade secret information, both to the company's business interests and reputation. On this basis, the judge imposed an obligation to pay immaterial damages of Rp35,000,000.00 as a form of liability for losses arising from the misuse of the information.

Second, the form of legal protection provided in the decision is realized through an order to stop the use and disclosure of trade secrets that are carried out without rights. This protection has an important position because the essence of trade secret protection is not only limited to providing compensation for losses that have occurred, but also includes preventive efforts so

that information that has economic value does not continue to be used or disseminated by parties who do not have authority. In this case, the prohibition on the use of the Van Houten Kitchen portfolio by former workers and other companies shows that there are legal efforts to protect the exclusive rights of the owner of trade secrets in controlling the access, utilization, and distribution of business information owned by him. With this termination, legal protection is not only repressive against the perpetrators of violations, but also has a preventive function to maintain the sustainability of economic value and the competitive advantage inherent in trade secrets

Application of Article 1365 of the Civil Code in Decision Number 1035/Pdt.G/2022/PN.Jkt. Pst and Abandonment of Law Number 30 of 2000 as Lex Specialis

The violation of trade secrets in the form of the unauthorized use of van Houten's portfolio by former employees in Decision Number 1035/Pdt.G/2022/PN.Jkt. Pst is in accordance with the provisions of Article 13 of Law Number 30 of 2000 concerning Trade Secrets, which states that a violation of trade secrets also occurs when a person deliberately discloses trade secrets, reneges on agreements or denies written or unwritten obligations to maintain trade secrets that are so that Article 13 of the Trade Secret Law should be the main basis for consideration by the judge in deciding the misuse of the van Houten Kitchen portfolio.

However, in his consideration, the Judge did not include the provisions of Article 13 of Law No. 30 of 2000 concerning Trade Secrets as the basis for the unlawful act in this case, even though the defendant's actions met the elements of trade secret violation stipulated in Article 13 of the Trade Secret Law. As a result, the legal construction in the decision relies more on the concept of unlawful acts based on Article 1365 of the Civil Code, which is general, rather than on the specific provisions in the intellectual property protection regime that specifically regulate trade secrets.

In fact, based on the principle of *lex specialis derogat legi generali*, the provisions in the Trade Secrets Law should obtain priority implementation as the main legal basis in assessing violations and determining the form of legal protection provided to the owners of trade secrets. The application of the law that emphasizes the trade secret regime will provide more legal certainty and strengthen legal protection for the exclusive rights of trade secrets owners.

Legal protection for harmed owners of trade secrets in the form of providing compensation and stopping the use of trade secrets should not only be based on the concept of unlawful acts as stipulated in Article 1365 of the Civil Code, but also be specifically associated with the provisions of Law Number 30 of 2000 concerning Trade Secrets, especially Article 13. This is because the actions of former workers in this case are not solely a violation of general civil law, but also related to violations of the obligation to maintain the confidentiality of information obtained in employment relationships. The application of Article 13 of the Trade Secret Law will provide a more specific legal basis for judges in assessing violations of the rights of trade secret owners. In addition to being the basis for imposing liability obligations in the form of compensation, these provisions can also strengthen the legal basis for the order to stop use and prohibit the disclosure of confidential information to other parties. Thus, the protection provided focuses not only on the consequences of the losses that have occurred, but

also on efforts to maintain the continuity of the confidentiality and economic value of the information.

Based on this, the ruling has basically provided a form of repressive legal protection through the provision of compensation and the termination of the use of trade secrets. However, the construction of legal considerations in the decision can still be strengthened if the judge not only bases the decision on Article 1365 of the Civil Code, but also applies Law Number 30 of 2000 concerning Trade Secrets as a *lex specialis* provision. With this approach, the protection of the owners of trade secrets will have a more comprehensive basis, namely not only protecting the interests of the losses that arise, but also guaranteeing the exclusive rights of the owners to business information that has economic value. Article 1365 of the Civil Code is not ruled out but is a general basis for civil liability, while the Rahaasia Trade Law is a special basis for the qualification of violations.

CONCLUSION

The misuse of trade secrets in the form of Van Houten's portfolio was carried out by Fuad Fajar Samudera as a former employee of PT. Flux Asia Solusindo together with PT. Jelajah Andaliman Indonesia without the owner's permission has fulfilled the elements of unlawful acts as stipulated in Article 1365 of the Civil Code, and violated the obligation of confidentiality contained in the Indefinite Time Work Agreement (PKWTT). In addition, the defendants' actions also violated Article 13 of Law Number 30 of 2000 concerning Trade Secrets, because there was a denial of the written obligation to maintain the confidentiality of information that has economic value. Legal protection for trade secret owners is realized through the payment of compensation, termination of the use of trade secrets, and the imposition of case fees for the Defendant. The judge's decision has provided legal protection to the owner of trade secrets through the approach of Article 1365 of the Civil Code. However, the construction of the legal argument is not optimal because it has not placed the Trade Secret Law as the main norm (*lex specialis*) in disputes whose object is business information that meets the character of trade secrets.

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