

Asean'S Lack of Integration in Trademark Registration Related to Asean Economic Community (AEC) by 2015¹

Edy Santoso

Postgraduate Program of Business Law, Nusantara Islamic University
Jl. Soekarno-Hatta, Bandung 40286, Indonesia
E-mail: e_santoso_id@yahoo.com

Martin Roestamy

Postgraduate Program of Business Law, University of Djuanda
Jl. Tol Ciawi No.1, Ciawi, Bogor 16720, Indonesia
E-mail : martinroestamy@yahoo.com

Abstract

This paper aims to identify a lack of integration system in trademark registration and discuss the model of ASEAN's integration system in trademark. Nowadays, improving the efficiency of the administration and protection of intellectual property rights (IPRs) is very important. It will impact to leverage on IPRs generated in and out of the region to pursue its development and economic integration goals. Therefore, an effort to integrate the trademarks registration system in single ASEAN registration system is very crucial to be prepared. It is in line with the implementation planning of ASEAN Economic Community by 2015. A lack of integration system in trademark registration will impact to a lack of effectiveness in regulating, filling and enforcing the trademark in all ASEAN member states. Furthermore, it will impact to increase the risk of the spread of counterfeit goods in ASEAN region. This paper identified that a lack of integration in trademark registration are caused of a lack of ICT platform policy implementation, a gap on trademark legislation, and language of instruction policy on the web so that there are found three class categories of member states in implementation the registration system in ASEAN member states. Thus, ASEAN should create the new model of ASEAN Trademark System (ATS).

Keywords: ASEAN's lack of Integration, ASEAN Economic Community, Trademark Registration.

The research is financed by University of Djuanda, Bogor, Indonesia and it has presented in Poster Session at 2013 ILA-ASIL Asia-Pacific Research Forum, on May 15-17, Taipei, Taiwan, Republic of China.

I. Introduction

Nowadays, intellectual property (IP) has become a central element in economic and cultural policy in a world in which the source of wealth is increasingly intellectual, as opposed to physical, capital and which markets are distributed across the globe². It is as an intangible asset for a company which has created innovation goods and services to access the global market.

In this situation, IP policy in ASEAN³ countries can also help to incubate a vibrant culture of creativity and invention for facing global competition in international trade. Furthermore, IP policy can influence the volume and quality of external trade and investment, the transfers of advanced as well as proprietary technologies. Thus, IP creativity is a major determinant of local value added and external competitiveness⁴.

IP protection and enforcement have come to the forefront as a key international trade issue for many countries including in ASEAN countries. It is very crucial issue after signing the agreement of establishing the world trade organization (WTO)⁵ where all ASEAN countries are WTO member.

WTO Agreement can be used as an embryo of law umbrella on IPR because it contained Trade-Related Aspects of Intellectual Property Rights agreement (WTO-TRIPS⁶) in which sets minimum standards on IPRs protection

¹This paper has been presented at 2013 ILA-ASIL ASIA-PACIFIC RESEARCH FORUM , *International Law and Dispute Resolution: Challenges in the Asia Pacific*, May 15-16, 2013, Taipei, Taiwan, Republic of China.

²Rodney D Ryder, *Intellectual property and the Internet* 64 (Butterwoths ed., 2002).

³The Association of Southeast Asian Nations was established on 8 August 1967 in Bangkok, Thailand, with the signing of the ASEAN Declaration (Bangkok Declaration) by the Founding Fathers of ASEAN, namely Indonesia, Malaysia, Philippines, Singapore and Thailand. Brunei Darussalam then joined on 7 January 1984, Viet Nam on 28 July 1995, Lao PDR and Myanmar on 23 July 1997, and Cambodia on 30 April 1999, making up what is today the ten Member States of ASEAN. One of the aims and purposes of ASEAN is to accelerate the economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of Southeast Asian Nations. See ASEAN Secretariat, *Overview of ASEAN*, available at <http://www.asean.org/asean/about-asean> (last visited June.10, 2013).

⁴See *ASEAN Economic Community Blueprint* 19 (ASEAN Secretariat ed 2008).

⁵The World Trade Organization (WTO) is an organization that intends to supervise and liberalize international trade. The organization officially commenced on January 1, 1995 under the Marrakech agreement, replacing the General Agreement on Tariffs and Trade (GATT), which commenced in 1948, available at http://en.wikipedia.org/wiki/World_Trade_Organization (last visited March.10, 2012).

⁶The TRIPS agreement is part of WTO agreement, is to date the most comprehensive multilateral agreement on intellectual property. The areas of intellectual property that it covers are: copyright and related rights (i.e. the rights of performers, producers of sound recordings

and enforcement. This is the legal basis of international law in the field of international trade that will binds member states to comply.

In international trade context, creating “trademark” plays important role in boosting the company for developing goods and services as an effort to seize the market both internally and externally. In this regards, trademark is one part of a company’s proprietary rights comprising in IP concept. The role of trademark has become more important, particularly in the safeguarding of fair business competition.

By creating and registration a trademark, product leadership can be created. It is a trademarked term serves as an information shortcut for consumers. Thus, that’s an extremely valuable asset that some companies will go to surprisingly great lengths to protect¹. Valuable trademark will assist company to penetrate business market globally. In other word, it is as a “identity” for a company and a country.

However, in the context of trademark protection effort, ASEAN is still face problem in integrating the registration system in single ASEAN network system. It will impact to a lack of effective in regulating and enforcing the trademark registration in ASEAN countries. Furthermore, the lack of integration will impact to increase the risk of the spread of counterfeit goods which is fuelled by cheap manufacturing costs, labour and raw materials² in the region. Therefore, this paper aims to identify a lack of integration system in trademark registration and to discuss the model of ASEAN’s integration system in trademark.

2. IP Policy on Trademark and ASEAN Economic Community (AEC)

In business law aspect, the role of law for IPRs protection is to trigger the birth of creativity (triggers creativity)³. IPR protection will provides legal conditions among of business stakeholders to create new product and trademark. Thus, it is important for developing the law of global business as effort in safeguarding the fair business competition.

Creativity is core component which is needed in creation of innovation goods and service. It is as a part of the creation of one's mind that is able to produce the goods with value added so that it can be commercialized. Thus, "originality" in creating of goods and service are as a differentiator identity in competition.

The parties, who involved in the business, will feel encouraged to create new product and trademark. Business player will create better products than its competitors. Thus, it will become the trigger of development of new knowledge in the community. In this situation, the development of new products will grow faster so that it can create the fair trade environmental.

The empowering of society’s creativity enables science and knowledge can be developed for society welfare. For example, international law on IP can be a trigger to create developing new economic policy in US, Germany and Japan⁴. It have proven as the countries which enjoy income from the innovative products which they export.

Thus, managing IP is as a ticket to *innovation* and competitiveness in global market. In this regards, the concept of IP law will provide protection for works from the plagiarism, piracy as well as forgery are committed by others. IP law is that area of law which concerns legal rights associated with creative effort or commercial reputation and goodwill⁵.

Theoretically, a trademark is a sign which can distinguish the goods and services from those of competitors. It will inform to consumers that the goods and services on which they used come from the company. Customer can find specific signs that differentiate products or service as different from the product else's. This is an effort to protect the exclusive rights to commercial identity⁶.

In context of business competitiveness, trademark viewed as competitive advantage for serving the consumer. The trademark can push to become a product leadership that can be achieved by brand-marketing of products⁷. For example, Japan’s trademark of goods and services is to become recognized globally. The world community is very familiar with Japan’s trademark, such as car product with trademark of Toyota.

and broadcasting organizations); trademarks including service marks; geographical indications including appellations of origin; industrial design; patents including the protection of new varieties of plants; the layout-designs of integrated circuits; and undisclosed information including trade secrets and test data, available at http://www.wto.org/english/tratop_e/trips_e/intel2_e.htm (last visited March.10, 2012).

¹See also Sean Stonefield, *The 10 Most Valuable Trademarks*, available at <http://www.forbes.com/sites/seanstonefield/2011/06/15/the-10-most-valuable-trademarks> (last visited February.28, 2013).

²See also Siraphapha Rungpry and Oliver Knox, *The ASEAN Economic Community : good news for trademark owners?* 58, World Trademark Review, Issue 36 April/May 2012, available at www.WorldTrademarkReview.com (last visited April. 18, 2013).

³See Edy Santoso, *Computer Software Trading By Electronic Transaction Related To Copyright and Consumer Protection* 365 (UNPAD., 2009).

⁴See also Yasmi Adriansyah, “Intellectual property rights and Indonesian economic growth,” The Jakarta Post, October 10, 2007, available at <http://www.thejakartapost.com/news/2007/10/10/intellectual-property-rights-and-indonesian-economic-growth.html> (last visited October, 10, 2007).

⁵ Davit Bainbridge, *Intellectual Property* (London: Pitman Publishing, Fourth Edition, 1999), 3.

⁶ Richard A. Spinello, *Intellectual Property Rights* 18, Emerald Group Publishing Limited, Vol.25 No.1, 2007 pp 12-22.

⁷See also Treacy and Wiersema, (1993), *Customer Intimacy and Other Value Diciplines*, Harvard Business review, Jan-Feb, available at <http://www.a3o.be/materialen-en-links/images/dbimages/docs/treacywiersema.pdf> (last visited February. 20, 2013).

IP regime, such as trademark will impact to economic development; it will boost economic growth fast. In this situation, IP can be used as a key element to success in introduction of their goods and services to pass cross border of the country and increasing the economics' income. In USA for example, the IP industries contribute positively to the overall U.S. trade balance through royalties and licensing fees¹. In 2009, U.S. receipts from cross-border trade in royalties and license fees (relating to patent, trademark, copyright, and other intangible rights) totaled of \$89.8 billion².

Thus, the existence of IP policy without adopting the international economic policy will face the trading problem. It is important that national or regional policy is in line with international trade policy because it allows ASEAN member states will has a highly competitive economic value and participate in economic development program³. Therefore, implementation AEC must consider the IP issue in order to all ASEAN policy can be integrated into the global economic system.

The development of international law through the 'law-making' multilateral treaties is as a material evidence of the existence of consensus among member states of the international agreement to enforce IP protection. Thus, international trade policy that is formed by international agreement has significant role to impact in creating of new economic global policy.

The existence of CAFTA (China-ASEAN Free Trade Agreement) for example, is as a challenge for the ASEAN member states to push the creating of good and service. China offers enormous potential for export-oriented ASEAN member states. As a country with rapidly growing economy and a large market share, China provides opportunity. In this situation, international agreement will to boost regional economic development through introducing ASEAN's goods and services to international market.

Forming ASEAN's integration in trademark is a challenge for ASEAN member states in providing the standard trademark protection. It will also help provide protection to the product and service in global context. In this situation, it is important point to become ASEAN as a region fully integrated into the global economy⁴ so that it will provide grow together through increasing export commodity.

In this regards, existence of small and medium enterprises (SMEs) viewed as the socio-economic backbone in the region. It will impact to leverage competitiveness value within and outside the region. Therefore, implementation of IP concept in global business can be used as triggers creativity for SMEs business players.

However, ASEAN countries are still face problems in determining the IP standard policy. According to International Intellectual Property Alliance (IIPA) report⁵, 2013, Indonesia is categorized as Priority Watch List (PWL), Thailand and Vietnam are categorized Watch List (WL), and Malaysia and Philippines are categorized as Countries Deserving Special Mention. Furthermore, there are fairly poor in IP awareness, particularly in Cambodia, Laos, Myanmar and Vietnam⁶. Therefore, there may increase the risk of the spread of counterfeit goods in ASEAN market.

Currently, the major problem among of ASEAN member states is a failure to recognize the quality of products, or the validity of its certification or production standards⁷. Therefore, to fulfill the international standard requirement, ASEAN should concern on signed international agreement, such as WTO⁸. Failing to implement the requirement will impact to a lack of recognition ASEAN's product and service in global market.

In fact, first step to process integration in trademark has started. ASEAN has noticed the importance of trademark protection for eighteen years ago. The ASEAN member states have signed the ASEAN Framework Agreement on Intellectual Property Cooperation on 15 December 1995, Bangkok, Thailand.

In article 1 (5) stated that "Member States shall explore the possibility of setting up of an ASEAN trademark system, including an ASEAN Trademark Office, if feasible, to promote the region-wide protection of trademark bearing in mind developments on regional and international protection of trademarks".

Since signed the agreement, ASEAN has been working towards the development of the IP system in the region

¹See Amanda Horan, Christopher Johnson, and Heather Sykes, *Foreign Infringement of Intellectual Property Rights: Implications for Selected U.S. Industries*, U.S. International Trade Commission, Office of Industries Working Paper 4 (2005), available at http://www.usitc.gov/publications/332/working_papers/id_14_100505.pdf (last visited March. 23, 2012).

²Jennifer Koncz and Anne Flatness, "U.S. International Services," *Survey of Current Business*, U.S. Bureau of Economic Analysis (BEA) (2010). This measure of cross-border trade in royalties and license fees by U.S. companies include transactions with both affiliated and unaffiliated foreign companies, available at http://www.bea.gov/scb/pdf/2010/10%20October/1010_services.pdf (last visited March. 23, 2012). See also Shayerah Ilias and Ian F. Fergusson, *Intellectual Property Rights and International Trade* 6. <http://www.au.af.mil/au/awc/awcgate/crs/r134292.pdf> (last visited June. 11, 2012).

³See also ASEAN Economic Community, available at <http://www.asean.org/communities/asean-economic-community> (last visited February. 20, 2013).

⁴It is one of the goals of AEC. See ASEAN Economic Community, available at <http://www.asean.org/communities/asean-economic-community> (last visited February. 20, 2013).

⁵IIPA 2013 Special 301 Report, 2013, available at http://www.iipa.com/2013_SPEC301_TOC.htm (last visited April, 18, 2013).

⁶*Id.* at 57.

⁷See Rungpry and Knox *supra* note 11, at 55.

⁸All ASEAN member states are WTO member.

through the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC). Unfortunately, it still faces obstacles in integrating the system into an international trademark protection.

3. ASEAN's Lack of Integration in Trademark Registration

Trademark owners would be well advised to create the business for supporting AEC program. It provides opportunity, particularly for trademark owners which are seeking either to enter the ASEAN market or to expand their existing business over the world through bilateral, regional and multilateral agreement. However, it needs to ensure that IP protection in every member states prior to harmonization¹.

Therefore, to acceleration of AEC integration by 2015, the AWGIPC prepared a new Work Plan as part of the Blueprint to reflect the new objective of ASEAN. The ASEAN IPRs Action Plan 2011-2015 is designed to meet the goals by transforming ASEAN into an innovative and competitive region through the use of IP for their nationals and ensuring that the region remains an active player in the international IP community.

Improving the efficiency of the administration, promoting and enforcement of IPRs in the region within the context of economic development is the priority goals. Future expectations, ASEAN will leverage on IPRs generated to pursue its development and economic integration goals.

Currently, ASEAN has initiative to reduce the average turnaround time (from filing to registration) for the registration of trademarks without objections/opposition to 6 months by 2015². This target will impact to eliminate backlog applications so that the data is possible to be shared among and implemented by ASEAN IP Offices. Therefore, implementing an enhanced IT-system is important so that simplification trademark workflow can be implemented across ASEAN IP Offices.

However, the ASEAN member states are still using the traditional systems which have not been integrated. Among of the member states have different legal basis and different system standard, so that some are viewed insufficiently advanced on trademark protection implementation.

This paper identified that a lack of integration system in trademark registration will impact to the obstacle for facing AEC by 2015. Currently, the ASEAN member states can be categorized to become three group in applying registration system effectiveness:

3.1. An Effective Registration System

Trademark protection in Singapore is regulated by Trade Marks (Amendment) Act, 2007. Term of trademark protection for 10 years and renewable. Currently, Singapore is a member of Madrid Protocol³ which allows registering a trademark in countries outside of Singapore. Thus, the trademark owner is possible to seek protection in several countries simultaneously by filing one application with a single office, in one language and by paying one fee⁴.

By applying the online registration process, it is possible to parallel in any of the 85 nations that is a part of the Madrid System. Thus, if applying for trademarks in Singapore is approved the application process in any of the other provided nations is simplified⁵.

In implementation of Information and Communications Technology (ICT) platform policy, Singapore has already made progress for a common search system by setting up a website that performs a search function of the trademark databases. Thus, apply to register a trademark in Singapore allow to use a similar mark search via eTrademarks⁶. It needed to ensure that there are no existing marks on the register that are similar to new applicant. If there exists a similar mark (used on similar goods or services), the system would raise an objection to applicant.

In registration trademark process, the system only needs average time is only 6 to 8 months. It is the shortest registration process in ASEAN region. Besides that, the interaction language is English, so that the applicant from outside of Singapore can apply to register easily. In ASEAN region, Singapore is the most effective country in trademark registration system.

Other ASEAN member states which is viewed has an effective system in trademark registration are Philippine and Malaysia. Philippines is also a member of Madrid Protocol. Thus, the trademark owner who has registered in Philippines will get protection in several countries simultaneously.

Furthermore, trademark protection in Philippines is regulated by Republic Act No. 8293 Intellectual Property

¹ See Rungpry and Knox *supra* note 11, at 55.

² See ASEAN Intellectual Property Rights Action Plan 2011-2015, available at www.asean.org (last visited August 15, 2013).

³ An internationally recognized system for international registration of trade marks

⁴ Applying through IPOS to register a trade mark outside Singapore, available at <http://www.ipos.gov.sg/AboutIP/TypesofIPWhatisIntellectualProperty/Whatisatrademark/Applyingforatrademark/ApplyingthroughIPOSStoregisteratrademarkout.aspx> (last visited August 12, 2013).

⁵ See Neethu Stephen, *Trademark Registration Singapore*, available at, <http://www.servolve.com/trademark-registration-singapore> (last visited August 12, 2013).

⁶ See <http://www.ipos.gov.sg> (last visited August 13, 2013).

Code. The Philippines IP office provide the system of “trademark search and trademark online”¹ so that it allows the applicant search trademark database and register through online filling system.

Meanwhile, Malaysia has Trade Marks Act 1976 to protect the trademark. Although Malaysia is not a member of Madrid protocol but Malaysia is viewed has effective registration system which is allow the applicant to apply registration via IP online².

3.2. An Middling Effective Registration System

The ASEAN member states which are viewed in categories of a middling effective system for trademark registration are Brunei, Indonesia, Thailand and Vietnam. All countries have trademark law which is providing the trademarks protection for 10 years and renewable. However, the big problem is that the language of interaction uses the national language except Brunei and Vietnam³. Some countries provides translation in English on the IP office’s website, but incomplete.

Countries with this category are mostly having online database trademark system. For example, the National Office of Intellectual Property of Vietnam has created The Industrial Property Digital Library (IP Lib)⁴ which is is allows the users to search for and view published applications and granted patents, industrial designs, and trademarks. IP lib on trademark allow user to search query creation for trademark. Meanwhile, Indonesia has created online database for trademark, patent and industrial design.

However, by not using full English and not providing online registration system, the countries which are in this category will impact to the foreign applicant who those want to register from outside of the countries. The most of the countries are still using traditional system to file and register the trademarks.

Furthermore, a country which is not member of Madrid Protocol will difficult to protect the trademark in several countries simultaneously. In this category, is only Vietnam which a member of Madrid Protocol so that the applicant will get protection in several countries.

3.3. An Ineffective Registration System

The ASEAN member states of Cambodia, Lao and Myanmar are viewed in categories of an ineffective system for trademark registration. All countries have not been implementing the ICT platform in trademark information and registration. Thus, the applicant will face difficulties to make progress for a common search system through the website. The countries still use traditional system in filling and registration the trademark.

In this case, Lao has the 2007 Intellectual Property Law to regulate trademark protection. Meanwhile, Cambodia has Law concerning Marks, Trade Names and Acts of Unfair Competition of the Kingdom of Cambodia, 2002 to protect owner trademark. Both of countries provide the trademarks protection for 10 years.

However, until now Myanmar has yet to promulgate its own specific trademark law. Trademarks and the process by which they are registered are contained in several statutes, most notably the Panel Code of 1860, which gives the definition of trademark; the Private Industrial Enterprise Law, which provides that no business is allowed to “distribute or sell its goods without trademark,” and, most importantly, the Registration Act which govern the procedure and requirement of all property, including trademarks⁵. It is difficult for the applicant to register trademark.

Thus, Myanmar cannot implement a competent national system for trademark protection; it is inconceivable that it could ascend to a regional mark system, especially if that system were required to work in tandem with national offices⁶.

States that fall into this category should strive to have the standard IPR regulations as stated in the TRIPS-WTO. The application of ICT platform policy in order to facilitate the online registration is also top urgent to be realized. The use of ICT platforms policy must immediately to be implemented because it will hamper efforts to integrate systems together with other ASEAN countries.

4. A Model of ASEAN’s Integration System in Trademark

ASEAN countries are still facing the big problem not only in implementation of ICT platform policy but also regulation standard. The countries are in the category of an ineffective registration system have not standard regulation. Various forms of legal basis protection of the trademark, it would make confuse the trademark owners to register in this region.

Thus, the initial step as effort to integrate the system should be to harmonize the trademark regulatory for all ASEAN member states. Harmonizing the trademark regulation should be high priority because it will provide a

¹ See <http://www.ipophil.gov.ph> (last visited August 13, 2013).

² See <https://iponline.myipo.gov.my/iponline>, (last visited August 13, 2013).

³ See <http://www.brunei-patents.com.bn> (last visited August 13, 2013).

⁴ See <http://www.noip.gov.vn/web/noip/home/en> (last visited August 13, 2013).

⁵ Trademark system in Myanmar, available at <http://www.mirandah.com/en/myanmar/trademark-system-in-myanmar.html>, (last visited August 13, 2013).

⁶ *Id.* at 57.

common understanding of the provisions of trademark protection in the region. The harmonized regulation will impact to avoid the conflict among of member states which is caused of miss perception.

Meanwhile, the model of Community Trade Mark System (CTM) in the European Union has the specific provisions of the CTM Regulations which is valid across the European Union through registering the trademark in office for harmonization in the Internal Market (OHIM). Trademark owner has an exclusive right to use the trade mark and to prevent third parties to use, without consent, the same or a similar mark for identical or similar goods and/or services as those protected by the CTM.

In European-style Community Trademark, it has largely been a success, working in tandem with national registrations to provide companies with simple model, inexpensive and efficient protection of their marks within the European Union. EU member states are member of Madrid protocol, so trademark owners on member state the possibility to protect their trademarks in several countries by simply filing one application directly with their own national or regional trademark office.

Therefore, to set up ASEAN's integration system in trademark registration, ASEAN has to create the new system model. It will form an ASEAN IP Community which it will provide potential commercial benefits for all member states. Using integration system, it makes the processing registration enable to more effective through using single ASEAN IP office.

In this regards, AWGIPC enable to become an embryo to form ASEAN Trademark System (ATS). It creates a unified trademark registration system in ASEAN region, whereby one registration provides protection in all ASEAN member states. Thus, an ATS registration is able to enforceable in all member states.

Unfortunately, the presence of ASEAN IP portal¹ is not cover the online registration process for all members. It is only provide general information such as IP protection which is focus on trademark, industrial design and geographic indication (GI), and some information regard to statistics, resources and international cooperation. Thus, this portal has not provided integration of online registration effectively.

Therefore, ASEAN has to consider new models for providing online registration. It is important for ASEAN to learn from IP European Union office because the typical of the EU regional cooperation is similar with ASEAN. Implementing CTM in the European Union, it provides potential commercial benefits of unified trade mark registration, which proved to be effective to regulate and enforce trade mark registration in all member states.

Thus, the model is as effective model for society who those want to register the trademark and get protection in all EU member states. It is good model for providing simplify of online registration model because the CTM system provides for one single registration procedure.

Obviously, ASEAN must create a particular model that can accommodate all members' interests; given ASEAN has a unique and diverse characteristic when compared with other regions. ASEAN has also tradition principle of non-interference. Thus, using the harmonizing of regulation will impact to law enforcement in applying the committed regulation without intervention each other.

Good momentum that recently ASEAN and the EU signed a joint declaration on 22 November 2007 in Singapore². It approved to enhance cooperation on IPRs in the fields of legislation, enforcement and capacity building, to develop and strengthen awareness of intellectual property. The declaration can also impact to emerge the trademark registration system.

Thus, creating ATS is as a new model for ASEAN integration registration system is high urgent to be prepared. Implementation planning of the AEC is very close. With applying ICT platform in the system, harmonizing the regulation and standardizing language of instruction, it will possible to provide integration system in filling, registration, regulating, enforcing the trademark protection in the region through single ASEAN IP office.

5. Conclusion

In general, this paper concludes that a lack of integration in trademark registration is caused of a lack of ICT platform policy implementation, a gap on trademark legislation, and language of instruction policy on the web. All of the obstacle will impact to effort to integrate the registration system in trademarks. It has found three class categories of member states in implementation the registration system, firstly, effective system, secondly, a middling effective system, and thirdly, an ineffective system. The category describes that there are the various gaps among of ASEAN members is, so that it will be very difficult in the effort towards AEC.

This paper is also identified that ASEAN should create the new model of ASEAN Trademark System (ATS) which it will form ASEAN IP Community in trademark. Using the integrated system, it allows the registration processing more effective through using single ASEAN IP office. Thus, it will encourage the formation of AEC by 2015 in trademark can be realized.

¹ See <http://www.aseanip.org/ipportal/index.php> (last visited August 16, 2013).

² See <http://www.asean.org/asean/external-relations/european-union>, (last visited August 16, 2013).

References

- Amanda Horan, Christopher Johnson, and Heather Sykes, *Foreign Infringement of Intellectual Property Rights: Implications for Selected U.S. Industries*, U.S. International Trade Commission, Office of Industries Working Paper 4 (2005), available at http://www.usitc.gov/publications/332/working_papers/id_14_100505.pdf (March 23, 2012).
- Applying through IPOS to register a trade mark outside Singapore, available at <http://www.ipos.gov.sg/AboutIP/TypesofIP/WhatIsIntellectualProperty/WhatIsatrademark/Applyingforatrademark/ApplyingthroughIPOStoregisteratrademarkout.aspx> (August 12, 2013).
- ASEAN Secretariat, *Overview of ASEAN*, available at <http://www.asean.org/asean/about-asean> (June 10, 2013).
- ASEAN Intellectual Property Rights Action Plan 2011-2015, available at www.asean.org (August 15, 2013).
- ASEAN Economic Community Blueprint* 19 (ASEAN Secretariat ed 2008)
- ASEAN Economic Community, available at <http://www.asean.org/communities/asean-economic-community> (February 20, 2013).
- David Bainbridge (1999), *Intellectual Property*, Pitman Publishing, London, Fourth Edition, p. 3.
- Edy Santoso, *Computer Software Trading By Electronic Transaction Related To Copyright and Consumer Protection* (UNPAD, 2009), p.365
- IIPA 2013 Special 301 Report, 2013, available at http://www.iipa.com/2013_SPEC301_TOC.htm (last visited April, 18, 2013).
- Jennifer Koncz and Anne Flatness, "U.S. International Services," *Survey of Current Business*, U.S. Bureau of Economic Analysis (BEA) (2010), available at http://www.bea.gov/scb/pdf/2010/10%20October/1010_services.pdf (March 23, 2012).
- Neethu Stephen, *Trademark Registration Singapore*, available at <http://www.servolve.com/trademark-registration-singapore> (August 12, 2013).
- Richard A. Spinello, *Intellectual Property Rights* 18, Emerald Group Publishing Limited, Vol.25 No.1, 2007 pp 12-22.
- Rodney D Ryder. (2002), *Intellectual property and the Internet*, Butterwoths ed, p. 64.
- Shayerah Ilias and Ian F. Fergusson, *Intellectual Property Rights and International Trade* 6. <http://www.au.af.mil/au/awc/awcgate/crs/r134292.pdf> (June 11, 2012).
- Sean Stonefield, *The 10 Most Valuable Trademarks*, available at <http://www.forbes.com/sites/seanstonefield/2011/06/15/the-10-most-valuable-trademarks> (February 28, 2013).
- Siraprapha Rungpry and Oliver Knox, *The ASEAN Economic Community : good news for trademark owners?* 58, *World Trademark Review*, Issue 36 April/May 2012, available at www.WorldTrademarkReview.com (April 18, 2013).
- The World Trade Organization (WTO), available at http://en.wikipedia.org/wiki/World_Trade_Organization (March 10, 2012).
- The TRIPS agreement, available at http://www.wto.org/english/tratop_e/trips_e/intel2_e.htm (March 10, 2012).
- Trademark system in Myanmar, available at <http://www.mirandah.com/en/myanmar/trademark-system-in-myanmar.html>, (August 13, 2013).
- Treacy and Wiersema, (1993), *Customer Intimacy and Other Value Dicipines*, Harvard Business review, Jan-Feb, available at <http://www.a3o.be/materialen-en-links/images/dbimages/docs/treacywiersema.pdf> (February 20, 2013).
- Yasmi Adriansyah, "Intellectual property rights and Indonesian economic growth," *The Jakarta Post*, October 10, 2007, available at <http://www.thejakartapost.com/news/2007/10/10/intellectual-property-rights-and-indonesian-economic-growth.html> (October 10, 2007).
- www.ipos.gov.sg (August 13, 2013).
- www.ipophil.gov.ph (August 13, 2013).
- www.iponline.myipo.gov.my/iponline, (August 13, 2013).
- www.brunei-patents.com.bn (August 13, 2013).
- www.noip.gov.vn/web/noip/home/en (August 13, 2013).
- www.aseanip.org/ipportal/index.php (August 16, 2013).
- www.asean.org/asean/external-relations/european-union, (August 16, 2013).

This academic article was published by The International Institute for Science, Technology and Education (IISTE). The IISTE is a pioneer in the Open Access Publishing service based in the U.S. and Europe. The aim of the institute is Accelerating Global Knowledge Sharing.

More information about the publisher can be found in the IISTE's homepage:

<http://www.iiste.org>

CALL FOR JOURNAL PAPERS

The IISTE is currently hosting more than 30 peer-reviewed academic journals and collaborating with academic institutions around the world. There's no deadline for submission. **Prospective authors of IISTE journals can find the submission instruction on the following page:** <http://www.iiste.org/journals/> The IISTE editorial team promises to review and publish all the qualified submissions in a **fast** manner. All the journals articles are available online to the readers all over the world without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. Printed version of the journals is also available upon request of readers and authors.

MORE RESOURCES

Book publication information: <http://www.iiste.org/book/>

Recent conferences: <http://www.iiste.org/conference/>

IISTE Knowledge Sharing Partners

EBSCO, Index Copernicus, Ulrich's Periodicals Directory, JournalTOCS, PKP Open Archives Harvester, Bielefeld Academic Search Engine, Elektronische Zeitschriftenbibliothek EZB, Open J-Gate, OCLC WorldCat, Universe Digital Library, NewJour, Google Scholar

