

ABSTRACT

JUDICIAL CONTEMPLATION AND CHANGES CONCEPT OF INDONESIA POSITIVE LAW IN ANSWERING E-COMMERCE PHENOMENON

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The development of information technology such as Internet has changed the way of interaction between consumers and companies from a direct into an indirect interaction. Doing transaction through Internet differs completely from doing transactions in the real world. This fact leads to doubts concerning the law and the legal jurisdiction binding the parties in doing such transaction.

Transaction through e-commerce has become new law phenomenon. There are many problems embedded in the e-commerce such as matters in respect of evidentiary problems relating to the authentication of electronic transactions. The Indonesian law of evidence has not yet admitted the validity of digital documents, because the prevailing regulation requires that written evidence be based on documents. Transaction information via electronic or e-commerce requires proper legal protection from being accessed unlawfully by any third party. The issues of consumer protection, Internet banking, e-trading, intellectual property rights, taxation, the choice of law and the choice of jurisdiction has become more challenging.

As yet there is no law available that specially regulates the legal aspects of the Internet. Due to this it is required to extend the content of the Indonesia Civil Codes, Consumers Protection Law, Banking Law, Intellectual Property Rights Law, Capital Market Law, Taxation Law, International Civil Law and other law in relation to these aspects. The legal aspects of the Internet is totally new and for which no valid provisions are available, causing uncertainty and high-risk business. Therefore the existence of a special regulation is very important to every effort with regard to the legal protection for related parties. The development of information technology infrastructure in Indonesia needs to be followed up by the improvement of law instruments to support the effort.

Due to this, we should pay attention to the elements from the cyber phenomenon and refer to the legal theories in connection with the electronic transaction. The legal regulations on cyber should not be form in organic laws, but it more effective if any legal body in each field that related to cyber carry out all the customary law and perform it into legal regulations that will lead and assure any party in e-commerce transaction.