

**UNOFFICIAL TRANSLATION**

**LAW NO. 14/2001  
CONCERNING ON PATENT**

**THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

Considering :

- a. that in line with the ratification of international agreements by Indonesia, fast developments of technology, industry, and trade, a law that can provide reasonable protection for inventors is needed;
- b. that the provision mentioned in point a is needed for creating the fair business competition climate and paying attention to the interest of the public in general;
- c. that based upon the considerations specified in points a and b as well as observing the experience in implementing the existing patent law, it is necessary to issue a new patent law to replace Law No. 6/1989 on Patent, which has been amended by Law No. 13/1997 concerning the Amendment to Law No. 6/1989 regarding Patent;

In view of :

1. Article 5 paragraph (1), Article 20 paragraph (2), and Article 33 of the Constitution of 1945;
2. Law No. 7/1994 on the ratification of the Agreement Establishing World Trade Organization (Statute Book of 1994 No. 57, Supplement Book No. 3564);

With the approval of :

**THE HOUSE OF REPRESENTATIVES**

**DECIDES :**

To stipulate

**LAW REGARDING PATENT**

**CHAPTER I  
GENERAL PROVISIONS  
Article 1**

What is meant in this law, by :

1. Patent is an exclusive right granted by the country to inventors with regard to their technological inventions, to exercise their inventions directly or grant approvals to third parties to implement the said inventions for a specified period.
2. Inventions are inventors' ideas, contained into a specific problem-solving activity in the technology field, which can be in the form of products of processes or perfection and development of products or processes;
3. Inventors is an individual or a group of people, who jointly implement the idea contained into an activity producing invention;
4. Applicant is a party filing an application for patent;
5. Application is application for patent, which is submitted to the Directorate General;
6. Holder of Patent is an inventor as he owner of patent or parties receiving the said right from Patent's owner or other parties receiving further the said right, which is registered in General List of Patent;
7. Proxy is a consultant on Intellectual Property Rights;
8. Auditor is a person appointed as a functional official examining patent by a decree of the Minister because of his/her expertise and tasked to the application substantively;
9. Minister is the minister overseeing a department having a task of fostering in the field of intellectual property rights, including patent;
10. Directorate General is the Directorate General for Intellectual Property Rights, subordinate to the department chaired by the minister;
11. Date of receipt is the date of receipt of an application already fulfilling administrative requirements
12. Priority Rights is a right of an application to submit an application coming from countries taking part in the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization, in order to obtain an acknowledgment that the date of receipt in the country of origin is the date of priority of the destination country, which is also a member country participating in the two agreements during the period already determined in the said Paris Convention;
13. License is a license granted by a holder of patent to other party based on an agreement regarding the granting of rights to enjoy the economic benefits of a patent, which is protected in a certain period and under certain conditions;
14. Day is working day.

CHAPTER II  
SCOPE OF PATENT  
Part One  
Inventions Eligible For Patent  
Article 2

1. Patent is granted for new inventions containing inventive steps, and applicable in the industry.
2. An invention contains inventive steps if the said invention, for a person having certain expertise in the technical field, is a matter unpredictable before.
3. The judgment that an invention is a matter unpredictable before is done by observing the expertise existing upon the submission of the application, or already

existing upon submission of first application, in the case that the said application is submitted with a priority right.

### Article 3

1. An invention is deemed new in case that upon date of receipt the said invention is not the same with the technology, which has been disclosed before.
2. The technology, which has been disclosed before, as mentioned in paragraph (1), is technology already announced in Indonesia or outside Indonesia in writing, verbal details or through simulation, or other means, which enable an expert to implement the said invention before :
  - a. Date of receipt; and
  - b. Priority date.
3. The technology, which has been disclosed before, as mentioned in paragraph 1, cover application documents submitted in Indonesia, which are published on or after the date of receipt with the substantive examination being underway, but the said date to receipt is earlier than the date of receipt of date of priority of the application.

### Article 4

1. An invention is not assumed as having been published if, within a period not later than 6 months prior to date of receipt :
  - a. The said invention has been displayed in an international exhibition held in Indonesia or abroad which is official or acclaimed official or in a national exhibition, which is official or is acclaimed as official;
  - b. The said invention has been used in Indonesia by its inventor in the framework of trial run for research and development purposes.
2. The said invention is also not assumed as having been published if, within 12 months prior to date of receipt, there are other parties who have published it by means of violating the obligation to keep the confidentiality of the said invention.

### Article 5

An invention can be applied in a industry if the said invention is applicable in the industry as specified in the application.

### Article 6

Inventions in the form of new products or equipment and having practical use value due to their forms, configurations, constructions, or components, can obtain legal protection in the form of simple patent.

## Article 7

Patent shall not be granted to inventions of :

- a. Processes or products whose announcement and utility or implementation are in violation with laws in forces, religious morality, social order, or decency.
- b. Examination, maintenance, treatment and/or surgical methods applied to human beings and/or animals.
- c. Theories and methods in sciences and mathematics; or
- d.
  - i. All creatures, except micro-organisms;
  - ii. essential biological processes to produce plants or animals, except non-biological or microbiological processes.

## Part Two Patent Period Article 8

1. Patent shall be granted for a period of 20 years as of date of receipt; and the said duration is not extendible.
2. The date of commencement and expiration of a patent right shall be recorded and announced.

## Article 9

Simple patent shall be granted for a period of 10 years, starting from date of receipt; and the said period is not extendible.

## Part Three Subject of Patent Article 10

1. Patent shall be granted to inventors and other parties receiving further rights of the said inventors.
2. Should an invention is produced by several individuals jointly, the right to the said invention shall be owned collectively by the relevant inventors.

## Article 11

Unless otherwise proven, who is assumed as inventor is an individual or several individuals declared as inventors in application for the first time.

## Article 12

- (1) The party entitled to obtain patent or an invention, which is produced in working relationship, is the employer; unless otherwise agreed.

- (2) The provisions as meant in paragraph (1) shall also apply to inventions produced either by employees or workers who utilize data and/or facilities available in their works; even though the agreement does not require them to produce inventions.
- (3) The inventors mentioned in paragraphs (1) and (2) shall have the right to obtain a reasonable compensation by observing the economic benefits obtained from the said invention.
- (4) The compensation as mentioned in paragraph (3) can be paid :
  - a. In a certain amount and in lump sum.
  - b. In percentage.
  - c. By means of combining certain amount and in lump sum with prize or bonus.
  - d. By means of combining percentage with prize or bonus; or
  - e. Other forms agreed by the parties.
- (5) In the case of disagreement upon the method of calculation and stipulation of the amount of compensation, the decision shall be ruled by the Court of Commerce.
- (6) The provisions in paragraph (1), (2), and (3) shall not eliminate inventor's rights to have their names mentioned in patent certificates.

#### Article 13

- (1) Based upon the other provisions of this law, parties implementing an invention when an application for patent of the same invention is submitted, shall still be entitled to implement the said invention as former users; even though patent is then granted to the said invention.
- (2) The provision in paragraph (1) shall also apply to applications submitted with priority rights.

#### Article 14

The provision in Article 13 shall not apply in case that the parties implementing invention as former users, apply by using the knowledge about the said invention from details, pictures, or other information of the invention to which patent is applied for.

#### Article 15

- (1) Parties who implement an invention as mentioned in article 13 can only be acknowledged as former users in the case that after patent is granted to similar invention, they submit an application for the said invention to the Directorate General.
- (2) The application for acknowledgment as former user shall be completed with an evidence proving that the said invention is not implemented by using details, pictures, samples, or other information of the invention, which is applied for patent.
- (3) Acknowledgment as former users shall be granted by the Directorate General in the form of a certificate issued by former users by paying the costs incurred.

- (4) Certificate from former users shall expire upon the date of expiration of patent against similar invention.
- (5) The procedures for obtaining the acknowledgment of former users shall be ruled by a government regulation.

Part Four  
Rights and Obligations of Patent Holders  
Article 16

- (1) Holders of patent shall have exclusive rights to implement patent owned by the said holders and prohibit other parties that without their approval :
  - a. For product-patent : from making, using, selling, importing, leasing, delivering, or providing for selling purposes, or being leased or delivered the products, which are granted patent.
  - b. For process-patent : using production process, which is granted patent to produce goods or other actions as specified in paragraph a.
- (2) In the case of process-patent, the prohibition of other parties from importing process patent without approval, as mentioned in paragraph (1), shall only apply to the import of products solely resulting from the utilization of the process patent owned.
- (3) The use of patent for educational, research, test, or analysis purposes as long as it does not encumber the reasonable benefits of the patent holders, shall be excepted from the provisions of paragraphs (1) and (2).

Article 17

- (1) Without reducing the provision in Article 16 paragraph (1), holders of patent holders of patent shall make products or utilize the process, which is granted patent in Indonesia.
- (2) Should the manufacturing of the said products or utilization of the said process are only fit for regional implementation, the obligation specified in paragraph (1) shall not apply.
- (3) The exception specified in paragraph (2) can only be approved by the Directorate General if the patent holder has submitted an application in writing complete with the reasons and evidences provided by the authorized institution.
- (4) Terms and conditions regarding the exception and procedures for the submission of written application as mentioned in paragraph (3) shall be further regulated by a government regulation.

Article 18

Holders of patent of licensees of a patent shall pay annual fees the management and continued validity of the patent.

Part Five  
Legal Actions Against Violations of Patent

## Article 19

Should a product be imported to Indonesia and the process for manufacturing the said product has been protected by patent, which, based upon this law, the holder of the process patent on the basis of the provision in Article 16 paragraph (2) is entitled to take legal actions against the imported product in the event that the said product has been manufactured in Indonesia by using the process protected by patent.

## CHAPTER III APPLICATION FOR PATENT

### Part One

### General

### Article 20

A patent shall be granted based upon application.

### Article 21

Every application can only be submitted for one or several inventions being an integral unit of inventions.

### Article 22

The application shall be submitted by paying fee to the Directorate General.

### Article 23

- (1) Should the application be submitted by an applicant, who is not an inventor, the said application shall be completed with a statement and enough evidence certifying that the applicant is entitled to the said invention.
- (2) The inventor can examine carefully the application submitted by the non-inventor applicant as mentioned in paragraph (1), and upon his/her own expense, can ask for a copy of the said application.

### Article 24

1. The application shall be submitted in writing in the Indonesia language to the Directorate General.
2. The application shall contain :
  - a. Date, month and year of application;
  - b. Full address of the applicant;
  - c. Inventor's name and citizenship;
  - d. Name and address of attorney, in case that the application is submitted through an attorney.

- e. Special power of attorney, in case that the application is submitted by an attorney;
  - f. A statement certifying that the application is requested for patent;
  - g. Title of invention;
  - h. Claims contained in the invention;
  - i. Descriptions of the invention, comprehensively containing information regarding how to implement the said invention;
  - j. Pictures, which are mentioned in the descriptions required for clarifying the said invention; and
  - k. Abstract of the said invention.
3. Further provisions regarding procedures for submitting application shall be ruled by a government regulation.

Part Two  
Intellectual Property Rights Consultant  
Article 25

- (1) An application can be filed by the applicant or his/he attorney.
- (2) The attorney as mentioned in paragraph (1) is an intellectual property rights consultant, who has been registered at the Directorate General.
- (3) As of the date of grant of power, the attorney shall maintain confidentiality of the invention and all application documents up to date of announcement of the said application.
- (4) Requirements regarding appointment of intellectual property rights consultant shall be ruled by a government regulation, while procedures of appointment shall be ruled by a presidential decree.

Article 26

- (1) An application submitted by the inventor or applicant, who is not domiciled or who is not having a permanent domicile in Indonesia, shall be submitted through an attorney in Indonesia.
- (2) The said inventor or applicant as mentioned in paragraph (1) shall state and choose legal domicile in Indonesia for application purposes.

Part Three  
Application With Priority Right  
Article 27

- (1) An application with priority right, which is ruled in the Paris Convention for Protection of Industrial Property, shall be submitted within 12 months as of date of receipt of the patent application, which is received for the first time in any country signing the said convention or member of the Agreement Establishing the world Trade Organization.



- (2) By still considering the provisions of this law regarding requirements that have to be fulfilled in the application, the application with priority rights as mentioned in paragraph (1) shall be completed with priority documents legalized by the officers authorized in the relevant country not later than 16 months as of priority date.
- (3) Should the requirements specified in paragraphs (1) and (2) have not been fulfilled, the application can not be submitted by using priority right.

#### Article 28

- (1) The provision in Article 24 shall apply applications using priority rights.
- (2) The Directorate General can require the submitted application using priority rights to be completed with :
  - a. Legitimate copy letters with regard to the results of substantive examination conducted against the first patent application abroad.
  - b. Legitimate copy of patent documents, which have been granted with regard to the first patent application abroad.
  - c. Legitimate copy of resolution regarding rejection of the first patent application abroad, in case that the application is rejected.
  - d. Legitimate copy of resolution regarding nullification of patent, which has been issued abroad in case that the said patent has been rejected.
  - e. Other documents required for enabling judgment that the invention applied for patent is truly construed as new invention, which contains inventive steps and can be applied in industry.
- (3) The submission of the legitimate copies of the documents specified in paragraph (2) can be completed with a separate additional information issued by the applicant.

#### Article 29

Further provisions regarding application for evidence of priority rights issued by the Directorate General and application submitted with priority rights shall be ruled by a presidential decree.

#### Part Four

#### Time of Receipt of Application

#### Article 30

- (1) Date of receipt is the date upon which the Directorate General receives application that has fulfilled the requirements mentioned in Article 24 paragraphs (1) and (2) letters, a, b, f, h and i as well as letter j in the case of the said application being completed with pictures and after the payment of the fee mentioned in Article 22.
- (2) In case that the descriptions mentioned in Article 24 paragraph (2). H and I is written in the English language, the said descriptions shall be completed with the Indonesia language translation copy, and shall be submitted not later than 30 days starting from the date of receipt as mentioned in paragraph (1).

- (3) Should the Indonesia language translation copy not be submitted within the period specified in paragraph (2), the said application is deemed as being withdrawn.
- (4) The date of receipt shall be recorded by the Directorate General.

#### Article 31

In case of the incomplete submission as mentioned in article 30 paragraphs (1) and (2), the date of receipt is accepted by the Directorate General.

#### Article 32

- (1) If the requirements mentioned in Article 30 have been fulfilled then, but the other provisions in Article 24 have not been fulfilled, the Directorate General shall require the completion not later than 3 months starting from the date of delivery of the said requirement by the Directorate General.
- (2) The length of time mentioned in paragraph (1), based upon the reasons agreed by the Directorate General, can be extended up to 2 months upon request of the applicant.
- (3) The length of time as specified in paragraph (2) can be extended up to 1 month after expiry of the said length of time provided that a fee shall be paid by the applicant.

#### Article 33

Should all the requirements required within the length of time specified in Article 32 have not been fulfilled, the Directorate General shall inform the applicant in writing that the application is deemed being withdrawn.

#### Article 34

- (1) In the event that more than one application are submitted by different applicants for one invention, the first-submitted application is accepted.
- (2) Should several applications for invention as mentioned in paragraph (1) be submitted on the same date, the Directorate General shall inform the applicant in writing to discuss this matter in order to resolve which application is submitted and submit the results to the Directorate General not later than 6 months commencing from date of delivery of the information.
- (3) Should an agreement of resolution between the applicants not be reached, a negotiation not possibly be conducted, or results of the negotiation not be submitted to the Directorate General within the length of time specified in paragraph (2), the

application shall be rejected; and the Directorate General shall inform of the rejection in writing to the applicants.

Part Five  
Amendment to Application  
Article 35

The application can be amended by changing the descriptions and/or claims provided that the said amendment does not extend the scope of invention, which has been submitted in the first application.

Article 36

- (1) Should an application comprises several inventions, which are not an integral unit of mentioned in Article 21, the applicant can request for the division of the said application.
- (2) The said request for the division specified in paragraph (1) can be submitted separately in one more applications if the scope of protection requested in each of the application does not extend the scope of protection, which has been submitted in the first application.
- (3) The said request for division as mentioned in paragraph (1) can be submitted not later than the time before the first application is resolved, as mentioned in Article 55 paragraph (1) or Article 56 paragraph (1).
- (4) The request for division specified in paragraphs (1) and (2), which have fulfilled the requirements set forth in Articles 21 and 24, shall be deemed submitted on the same date with the first date of receipt.
- (5) Should the applicant does not submit a request for division within the period specified in paragraph (3), substantive examination on the application shall only be implemented against the invention, which has been stated in the series of the first claims in the first application.

Article 37

The applicant can be changed from patent into simple patent, or vice versa, by the applicant by still focusing on the provisions of this law.

Article 38

Further provisions regarding the amendment specified in Articles 35,36, and 37, shall be regulated in a presidential decree.

CHAPTER SIX  
Withdrawal of Application  
Article 39

1. Applications can be withdrawn by the applicants by submitting a request in writing to the Directorate General.

2. Further provisions regarding withdrawal of applications shall be ruled in a presidential decree.

Part Seven  
Prohibition from Submitting Application and Obligation to  
Keep Confidentiality  
Article 40

Officers of the Directorate General or individuals, who, due to their duties, are working for or on behalf of the Directorate General, during their active service one year after pension or resignation for whatever reasons, shall be prohibited to submit an application, to obtain patent, or, in whatever manner, obtain rights or hold rights with regard to patent, except if the ownership of patent is obtained as a result of inheritance.

Article 41

As of the date of receipt, all officers of the Directorate General or individuals, who, due to their duties concerning the Directorate General, shall maintain confidentiality of the invention and all application documents up to date of announcement of the said application.

CHAPTER IV  
ANNOUNCEMENT AND SUBSTANTIVE EXAMINATION  
Part One  
Announcement of Application  
Article 42

1. The Directorate General shall announce application, which have fulfilled the provisions of article 24.
2. The announcement shall be conducted:
  - a. Patent : shortly after 18 months commencing from date of receipt or shortly after 18 months commencing from priority date, in case that the application is submitted with priority right.
  - b. Simple patent : shortly after 3 months commencing from date of receipt.
3. The announcement specified in paragraph (2) a can be done in advance upon request of applicant on a fee based.

Article 43

1. The announcement shall be done by:
  - a. Placing it in patent official News, issued regularly by the Directorate General, and/or

- b. Placing it in special facilities, which are easy to be accessed by the public. The said facilities are provided by the Directorate General.
2. The commencement date of announcement of the application shall be recorded by the Directorate General.

#### Article 44

1. The announcement shall be conducted :
  - a. Six months starting from the date of announcement of application for patent.
  - b. Three months starting from the date of announcement of application for simple patent.
2. The announcement shall contain :
  - a. Inventor's name and citizenship.
  - b. Name and address of applicant and attorney, in case that the application is submitted through an attorney.
  - c. Title of invention.
  - d. Date of receipt, in case that the application is submitted with priority right, date of priority, number and the country in which first application is submitted.
  - e. The abstract .
  - f. Classifications of the invention.
  - g. Pictures (if any).
  - h. Number of announcement and
  - i. Application number.

#### Article 45

- (1) Whoever can look at the announcement specified in article 44 and can submit a written opinion and/or objection against the said application, complete with the reasons.
- (2) In case of the opinion and/or objection as mentioned in paragraph (1) the Directorate General shall directly deliver a copy of letter containing the said opinion and/or objection to the applicant.
- (3) The applicant is submit an answer and clarification against the said opinion and/or objection to the Directorate General.
- (4) The Directorate General shall use the said opinion and/or objection, answer and/or clarification specified in paragraphs (1) and (3) additional considerations in the substantive examination level.

#### Article 46

- (1) After consulting with government institution in charge of the defense and security affairs, the Directorate General if required, with the approval of the minister, can

resolve not to announce the application, in case that upon his/her consideration, the said announcement can possibly disturb or violate the interest of defense and security.

- (2) The resolution not to announce the said application specified in paragraph (1) shall be informed in writing by the Directorate General to the applicant or his/her attorney.
- (3) The said consultation conducted by the Directorate General, as specified in paragraph (1) includes information of the invention which is applied for, and ends with a resolution not to be construed as violation to the obligation to keep confidentiality as specified in articles 40 and 41.