

## This Edition newsletter contains:

1. **The New Indonesian Trademark Law No.20/2016**
2. **Trademark Dispute : Cybex GmbH vs Local Brand**
3. **LPG Regulator Patent Struggle on the Trial Court**
4. **Microsoft Fought Against the Pirated Software with Some Local E-commerce**
5. **Japan Patent Attorney Association (JPAA) and Japan Intellectual Property Association (JIPA) visited Biro Oktroi Roosseno**
6. **The 83<sup>rd</sup> Birthday of Toeti Heraty – Art Exhibition and Musical Performances**

### 1. The New Indonesian Trademark Law No. 20/2016

The Government of Indonesia has enacted a new Trademark Law No. 20/2016 which came into effect on November 25, 2016. Some important changes in this new Trademark Law are as follows:

1. Protection for non-traditional trade marks in the form of sound marks, 3D marks and holograms.
2. Trademark application consisting of elements which may mislead consumers regarding the origin, quality, type, size, purpose of the goods and/or services cannot be registered. And, an application which is a name of a plant variety also cannot be registered;
3. A mark also cannot be registered if it contains a false information regarding the quality, benefit, or merit of the goods and/or services;

### 4. Procedure of filing a mark application are as follows:

- a. Filing Application  
↓
- b. Formality Examination (Max 15 days)  
↓
- c. Publication (2 months)  
↓
- d. Substantive Examination (Max. 150 days/7months)  
↓
- e. Certification

If there are no oppositions or rejections, a mark registration process shall take approx. 9 (nine) months.



5. Trademark application and/or renewal can be submitted online. This new Trademark Law was tailored to accommodate the Madrid Protocol;
6. Renewal of trademark can be submitted either six (6) months prior to the expiration date; or up to six (6) months after the expiration date of the trademark, subject to late fees and penalties;
7. Statement of Use signed by the mark owner is required when filing for renewal, and it shall state that the owner is still using the mark and the goods and/or services are still being produced;
8. More detailed procedure and requirements for provisional court order;
9. More severe criminal sanction for trademark infringements;
10. Trademark application which was filed under the previous law (Law No.15 year 2001) shall still be processed under the previous law;
11. Marks which have been registered under the previous law shall still valid for the remaining protection period;
12. Trademark disputes which still under examination in the Court shall still be proceed according to the previous law.

(source : from many)

## 2. Trademark Dispute : Cybex GmbH vs local brand

Various methods of transporting children have been used in different cultures and times. These methods include strollers (pushchairs), slings, backpacks, baskets, and bicycle carriers (Wikipedia). A stroller is needed right from the new-born until a child is able to walk a distance on his own, or if they are walking in a long distance or for a long day.

The Cybex GmbH is a well-known German company that manufactures pram or stroller, including car seat for babies. It has been established since 2003. The Cybex GmbH has registered its trademark in various countries such as Germany, Lebanon, Republic of Honduras, Canada, and the European Union.

A trademark dispute between Cybex GmbH and a local brand, Cybex from Surabaya, began when Cybex GmbH applied for a trademark registration to the Directorate of Trademark, The Ministry of Justice and Human Rights, on June 19, 2015. They were shocked when they knew that their trademark registration in Indonesia was rejected by the Ministry of Justice and Human Rights because there are similarities with a previously-registered local brand stroller from Surabaya, Cybex, produced by *Samuel Hadi Wiyoto*. In fact, the logo of the product of the defendant also has similarities with the plaintiff's logo. On that basis, the plaintiff's attorney worried that similarities occur will damage the reputation of his client companies. In this case, Cybex GmbH claims that Cybex Surabaya plagiarized their brand because the letters used are exactly the same and has no different elements. Both brands are equally composed of elements of the letter C-Y-B-E-X. As a result, Cybex GmbH filed a lawsuit to The Central Jakarta

District Court on September 19, 2016, with case No.50/Pdt.SusMerek 2016/PN.Niaga.Jkt.Pst., and has entered the evidence verification phase.



Source : pinterest.com

"Yes, just wait and see, since the evidences have been provided by both of the defendant and our side" said the advocate of Cybex GmbH to the reporters after the trial at the Central Jakarta District Court. The advocate of Cybex Surabaya commented that he doubts the evidence which belongs to the defendant since it is only a copy of the document. He said that in principle, the evidence of documents which were submitted to the judge must be the original document. However, the decision will be left to the judge.

Moreover, recently, The Central Jakarta Commercial Court held another trial for Cybex trademark dispute on October 17<sup>th</sup>, 2016. The trial was held with the agenda hearing for the plaintiff's answer against the defendant's answer. According to the trial, the panel of judges which was chaired by *Mr. Susilo Atmoko* received the answers and delayed the trial. The next trial was held on October 24<sup>th</sup>, 2016 with the agenda of the defendant's closing argument or an answer filed by the plaintiff.

Met after the trial, the defendant's advocate denied that his client had imitated the plaintiff's brand. His client is using the Cybex brand based on the certificate that has been registered in the Directorate of Trademark, The Ministry of Justice and Human Rights. "They have to prove it by providing the original certificate registration document instead of a copy document," the advocate said. He also said that the product strollers that are sold by his client is a product imported from China. His client patches the registered brand and sells in Indonesia, so it is not his own production.

However, the defendant's advocate said that his client does not rule out the possibility for reconciliation regarding this matter with one condition; the Cybex GmbH will appoint our client as a distributor in Indonesia, then this case will be finished.

*(source : from many)*

### **3. LPG Regulator Patents Struggle on the Trial Court**

LPG is currently widely used by the public, after the implementation of the conversion program of kerosene into gas. Beside gas cylinder, other devices that complements the conversion package are gas burner, hose and regulator (hereinafter referred to as the accessories). LPG Regulator has an important role.

Regulators are typically used to regulate the pressure that function as a conduit and stabilize the pressure of the gas coming out of the cylinder, so that the gas flow becomes constant.



Source : lazada.com

In Indonesia, the two patent holders for LPG regulator are being disputed in Central Jakarta Commercial Court. It started when Indra Mustakim sued for cancellation of the patent owned by Sukianto because it does not have the element of novelty.

The defendant is an inventor who is also a patent holder of a simple patent No. IDS000001445 titled LPG Regulator that has a Locking Mechanism. This patent was filed at the DGIP on October 12<sup>th</sup>, 2012 and has been granted on March 1<sup>st</sup>, 2016.

Meanwhile, the plaintiff has a simple patent titled LPG Regulators enhanced Tools. The plaintiff is an inventor who is also a patent holder of a simple patent since April 12<sup>th</sup>, 2010.

At the second session on August 4<sup>th</sup>, 2016, the plaintiff's attorney said that his client claims that Sukianto's patent is not new because his invention is not able to overcome gas leaks when it is being used. The plaintiff also said that he has been creating and modifying the LPG regulator in terms of shape, configuration, functions and method. However, the defendant's attorney explained that the patent owned by Sukianto is different from Indra's. The difference lies in the locking system on LPG cylinder. "The idea of locking system purely comes from defendants as the inventor," he added.

Based on Article 3 paragraph 1 of the Patent Law, an invention is considered new, if on the date of filing of patent application, the invention is not the same as the previously disclosed technology. The essential elements of the patent are its novelty. Presiding judge of the commercial court of Central Jakarta, Sinung Hermawan in the verdict read on November 11, 2016 said that LPG regulator tools owned by Sukianto have elements of newness. Therefore, LPG Regulator with Patent No. IDS000001445 will be still registered in the Directorate of Patents.

LPG regulator owned by Sukianto has a novelty value because it is very different from those in the market as well as Indra Mustakim's regulator, as the plaintiff. The difference lies in the locking system on LPG cylinders. The Judge rejected the plaintiff's lawsuit entirely.

*(source : from many)*

#### **4. Microsoft Fought Against the Pirated Software with some Local E-commerce**

E-commerce has grown rapidly in Indonesia in the past year; consumers are provided with many choices and with the existence of this e-commerce. Consumers who are living in big cities are the ones having the most advantages with the existing e-commerce. Heavy traffic and busy life style are the main reasons consumers in big cities chose shopping through e-commerce. In April 2014, transactions through e-commerce have reached a staggering amount of 21 trillion rupiahs.

You may find almost everything in e-commerce, including software. There are many software sold through e-commerce, however it also includes



pirated software. Microsoft as the biggest software company has initiated an anti-piracy campaign and officially engaged cooperation with big e-commerce from Indonesia such as Lazada, Blibli, JD, Bhinneka, and Blanja to fight against the trade of these pirated software in their marketplace.



Source : tekno.liputan6.com

Those e-commerce will apply a strict regulations for people/any party who wish to sell their product especially software products as for protect the consumer from buying pirated software. They will apply a certification system to ensure that the software products are original.

All the salesmen will also have to officially register and submit some information to the e-commerce; therefore the e-commerce will have verified data regarding the salesmen.



Source : maxmanroe.com

(source : from many)

## 5. Japan Patent Attorney Association (JPAA) and Japan Intellectual Property Association (JIPA) visited Biro Oktroi Roosseno



Biro Oktroi Roosseno was visited by the **Japan Patent Attorneys Association (JPAA)** on last December. At this meeting, JPAA informed that there are 9 branches of their offices in Japan. JPAA is the only accredited organization of Japan Patent Attorneys. The main activities conducted by JPAA are organizing and hosting seminars, visiting IP firm in foreign countries, and conduct international exchanges.

Besides that, JPAA explained in detail the definition of "trademark" and especially about Non-Traditional Trademarks. Since April 2015, Japan enacted the new law regarding the Non-traditional trademark. Non-traditional trademarks are becoming more common due to rapid progress in digital technologies and greatly contribute to corporate branding strategies. Non-traditional trademark in the form of sound marks, position marks, motion marks, color marks and hologram marks. It describes that if sound, position, motion, color, and hologram marks are to be registered, the trademarks themselves and their detailed description must be submitted. After the Non-traditional trademark law came into effect, trademarks holders rushed to file their application to Japan Patent Office (JPO).

\*\*\*



In the same month, our firm was also visited by **Japan IP Association (JIPA)**. The main topic was about the translation in Indonesia. Translation of languages indeed is an essential thing. It is because language is a very important and influential element in our lives as an expression to convey something to others. Differences in languages are often a constraint to state the purpose and idea.

In translating foreign languages into Indonesian language, there are some unfamiliar terms that are too long and complicated. Therefore, the sentence or word is replaced with shorter words but it has the same meaning and understanding. Also, sometimes there are words or sentences that are added to clarify.

The translation of special terms often leads to misunderstanding. To overcome this, the use of images will be helpful. Images can be used to clarify the content and understanding of its meaning. Sometimes, an explanation with the sentence could bring a different perception, but with images becomes clearer. Furthermore, many ways could be used to get a clearer understanding in order to minimize mistake.

(Source : BOR)

## 6. The 83<sup>rd</sup> Birthday of Dr. Toeti Heraty N. Roosseno – Art Exhibition and Musical Performances

On November 2016, several events such as art exhibitions and musical performances were held to celebrate the 83<sup>rd</sup> birthday of Dr. Toeti Heraty N. Roosseno, the President Director of Biro Oktroi Roosseno. Her birthday was celebrated from November 22<sup>nd</sup> to December 4<sup>th</sup>, 2016.

\* The Cemara 6 Gallery Museum, November 22<sup>nd</sup> to December 4<sup>th</sup>, 2016;

The Cemara 6 Gallery Museum was very excited to host an exhibition of art works by artists The Group Nine and musical performances. In this exhibition, The Group Nine also invited Mrs. Charlotte Panggabean, a well-known artist and a senior pianist, to participate to the said event. Mrs. Charlotte performed piano recitals with some young pianists, namely Mika Urip, Adrian Tanara, and Budi Hartono.

As presented by Dr. Toeti Heraty in her speech that day, *"Today is encouraging, because there are two important events taking place at The Cemara 6 Gallery-Museum, which was founded 23 years ago, December 4, 1993, when I was 60 years old. First of all, in May 2007 The Group Nine exhibited for the last time in the Indonesian Embassy of Netherlands, Den Haag. A few years earlier, they participated in the exhibitions at the Gregorian University, the Vatican, with the theme "Women on the Realm of Spirituality" which was supported by Indonesian Embassy of the Vatican, Rome, at the beginning of the Reformation era, after May 1998 "*.



Source : from Wikipedia

Dr. Toeti Heraty added, *"Both the events were so memorable and have inspired us, so that it bring our memories back for a moment on the history of the establishment Group Nine, where the three founders; Ratmini Soedjatmoko, Wirantini Zwijnenburg-Kamarga, and Timoer Bjerkness, have the same history that began with a community namely Lingkaran Seni Jakarta, Taman Ismail Marzuki, with a role to bring enthusiasm and interested person to the establishment of the Jakarta Arts Centre by Governor Ali Sadikin in 1968. Mien Sudarpo was the first chairperson and I became the second chairperson (who is also a member of the Jakarta Arts Council/Dewan Kesenian Jakarta). When I went to Leiden to continue study in October 1971, Soedjatmoko Ratmini replaced me and became the third chairperson of Lingkaran Seni Jakarta Community"*.

\* Rancamaya, November 27<sup>th</sup>, 2016

A house at Katelia-Street Rancamaya was crowded with guests on November 27<sup>th</sup>, 2016 on the celebration of the 83<sup>rd</sup> birthday of Dr. Toeti Heraty. The event was attended by family, children and grandchildren; brothers,

nephews, cousins, close friends and relatives/colleagues.

Among the colleagues who attended the event were Mr. Mohammed Cengic who is the Bosnia's ambassador to Indonesia, lecturers and alumnus UI Philosophy, a Poet from Germany who was going to be in Bali's festival but took time to stop by. Also the presence of a well-known Historian, Prof. Dr. Taufik Abdullah, who later was asked to give a speech, since he is the chairman of the *Jakarta Academy* where Dr. Toeti Heraty is the deputy.

There were singing show donations from grandchildren and a special dance event headed by a dance teacher for those who wanted to dance. A beautiful birthday cake was also made special with the theme "Aku dalam Budaya". (*The I In Culture*)

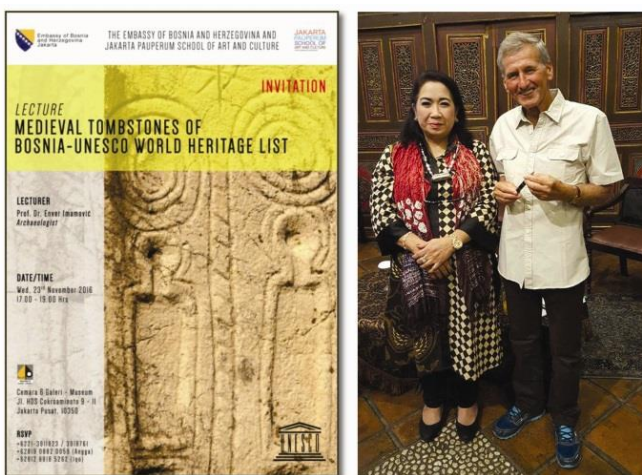


The birthday cake mentioned three books which among others "Aku dalam Budaya" (1979, 2003), "Calon Arang" (2000), "Tentang Manusia Indonesia" (Obor, 2013).

Overall, the celebration was wonderful and pleasant with all the tables and corners filled with flowers from

friends/family. The most importantly was that all daughters and son celebrated that day for the happiness of their mother, Dr. Toeti Heraty N. Roosseno.

Another event was also been held between those dates, in November 23<sup>rd</sup>, 2016. A lecture from Prof. Dr. Enver Immamovick was held on the subject: Medieval Tombstones of Bosnia-UNESCO world Heritage List. The Bosnia's ambassador to Indonesia, Mr. Mohammed Cengic also attended the event.



In the pictures are: Prof. Dr. Enver Immamovick as a speaker, with the Director of Cemara 6 Gallery Museum; Dr.Inda C Noerhadi, SS, MA

-----





( Anno 1951 )

## **BIRO OKTROI ROOSSENO**

Intellectual Property Protection, Licensing,  
Franchising, Unfair Competition, Advocacy &  
Legal Consultation and Litigation

Kantor Taman A9, Unit C1 & C2  
Jl. Dr. Ide Anak Agung Gde Agung (Mega Kuningan),  
Jakarta 12950, Indonesia  
P.O. Box 4585, Jakarta 10001

Phone No. : (62-21) 576 2310 (Hunting System)  
Fax. No. : (62-21) 576 2301, (62-21) 576 2302,  
eFax. No. : (65) 6826 4084  
E-mail : [iprlaw@iprbor.com](mailto:iprlaw@iprbor.com)  
Website : [www.iprbor.com](http://www.iprbor.com)