



# Biro Oktroi Roosseno

INTELLECTUAL PROPERTY NEWSLETTER – March 2016 – 18<sup>th</sup> edition

Anno 1951

Kantor Taman A9, Unit C1 & C2, Jl. Dr. Ide Anak Agung Gde Agung (Mega Kuningan), Jakarta 12950, INDONESIA

WWW.IPRBOR.COM

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### **1. Registered Mark "IKEA" was Deleted by a Lawsuit on Grounds of Non-Use**

The Supreme Court of Indonesia has rendered their decision in favor of a local company from Surabaya, PT. Ratania Khatulistiwa whereas they have filed a deletion action (non-use cancellation lawsuit) against the registered mark "IKEA" belonging to Inter IKEA Systems BV.

Initially the IKEA from Sweden already has trademarks registrations

dated 09 October 2006 and 27 October 2010. PT. Ratania Khatulistiwa then conduct an investigation to check whether the mark is being used or not.

From the investigation revealed that Inter IKEA Systems BV. are not using their trademarks in classes 20 and 21 for 3 (three) consecutive years. Towards the facts above, therefore PT. Ratania Khalustiwa from Surabaya filed their trademark application and further filed the lawsuit.

The deletion lawsuit was filed in 2013, whereas the Plaintiff, PT. Ratania Khatulistiwa argue that the registered

mark “IKEA” of Inter IKEA Systems BV has not been used for 3 (three) consecutive years as stipulated in article 61 paragraph (2) letter (a) as follows:

*“The deletion of a Mark registration on the initiative of the Directorate General may be made if the Mark has not been used for 3 (three) consecutive years in trade of goods and/or services from the date of registration or of the last use, except there is an excuse which is acceptable to the Directorate General;”*

PT. Ratania Khatulistiwa stated that their “IKEA” mark was the abbreviation of **Intan Khatulistiwa Esa Abadi**. Intan it self was the abbreviation from ‘Industri Rotan’. While the “IKEA” of Inter IKEA Systems BV is an acronym that consist of the initials of *Ingvar Kamprad* (founder of the company), *Elmtaryd* (the farm where he grew up), and *Agunnaryd* (his hometown in Småland, South Sweden).



Source : [www.hukumpedia.com](http://www.hukumpedia.com)

PT. Ratania’s lawsuit was accepted by the Commercial Court and the trademark registration of “IKEA” belonging to Inter IKEA Systems BV was deleted for classes 20 and 21. Against this decision, Inter IKEA Systems BV filed a cassation to the Supreme Court. And further, the Supreme Court examined the case and rendered their decisions.

The Supreme Court rendered their decision once again in favor of PT. Ratania as the Plaintiff which to decline the cassation from Inter IKEA Systems. This decision was made by voting since one of the panel of Judges have a dissenting opinion.

The Supreme Court Judge, Sumanatha, chooses a dissenting opinion and stated that the lawsuit should be rejected since IKEA is indeed already have a store operating since 2014 in Indonesia. However the other remaining panel of judges, Abdurrahman and I Gusti Agung Sumanatha decided to decline the cassation. Therefore the Cassation from Inter IKEA Systems BV was rejected, and their registered marks were deleted on grounds of non-use.



Source : [www.detik.com](http://www.detik.com)

However, Inter IKEA Systems BV have made a statement that they still have valid trademark registrations in Indonesia including in classes 20 and 21 since indeed they also have many other trademark registrations in Indonesia in various classes, therefore they can still use and enforce their IKEA mark in Indonesia. (source: from many)

## **2. DGIP Optimistic the Patent & Trademark Law Amended in 2016**

In the period of year 2000-2002, Indonesia has enacted several laws regarding Intellectual Property, namely Law No. 19 of 2002 concerning Copyright, Law No. 15 of 2001 concerning Marks, Law No. 14 of 2001 concerning Patent. And to accommodate the changes and development in Intellectual Property, after 15 years prevailed, on October 2014 the Copyright Law was amended by the enactment of Law No. 28 of 2014 concerning Copyright.

And currently, The Directorate General of Intellectual Property (DGIP) of Indonesia is aiming to enact the amendment of the Patent and Trademark Law. The Director of Intellectual Property, Ahmad M. Ramli, is targeting that both of the amendments shall be completed in 2016.



Source: [www.jawapos.com](http://www.jawapos.com)

“We are targeting to finish in March 2016, the Patent and Trademark Law amendment to be finished. The previous target was in 2015 since it was a part of 100 promises of Joko Widodo” said Ahmad Ramli in the event called “Flashback on achievement and performance of DGIP in year 2015 to embark the ASEAN Economic Community”.

The Secretary of Director General of Intellectual Property, Ir. Razilu, claims that they are optimistic to complete the amendment of Patent and Trademark law which was targeted in 2016. The optimism was based on several reasons, the first

reason is that the Patent and Trademark law amendment does not have any political content, therefore he believes that the discussion shall not take too much time.

The second reason is that the amendment draft for Patent and Trademark law were discussed through a special committee. According to Razilu, the amendment drafts which were discussed through a special committee usually proceeds faster. Moreover, still according to him, 70% of the list of issues on the Patent and Trademark Law has relatively been discussed and completed, it is now for the editorial matters to be discussed.

Razilu further explained that the urgency of the Patent and Trademark Law amendment is to align with the commitment of ASEAN Economic Community blue print which was enacted through the President Instruction No. 11 of 2011 concerning the Implementation of the ASEAN Economic Community Blue Print Commitment. And one of the commitment is to access the Madrid Protocol at the latest in 2015.



Source: [www.asean.org](http://www.asean.org)

Further, Mr. Fatlurachman as the Director of Marks and Geographical Indication, explained that the purpose of amendment of Trademark Law is to simplify the mark application procedure, provide swift services, provide protection which is Internationally harmonized, and to fulfill the needs in international trade.

Therefore, we are now waiting for the enactment of the amendment of Patent and Trademark Law in Indonesia and hope to see a better Patent and Trademark protection applied in Indonesia. (source: from many)

### **3. Free of Charge to File Copyright for SMEs**

One of the essential programs of the Ministry of Cooperative and Small & Medium Enterprises (SMEs) of Indonesia in encouraging the development of Cooperatives and SMEs are to give protection on copyright and trademark rights. Whereas to file for copyright and trademark protection for Cooperatives and SMEs shall be free of charge.



Source : [www.wikipedia.org](http://www.wikipedia.org)

This is conducted by the government to encourage business productivity and to protect the creativity which arises from the Cooperatives and SMEs.

The Ministry of Cooperative and Small & Medium Enterprises (SMEs) have cooperated with the Ministry of Law and Human Rights through Directorate General of Intellectual Property to issue a copyright protection which shall be free of charge for Cooperatives and SMEs.

Previously, SMEs have to wait approximately 6 months and pay Rp 4 million if they wish to obtain the copyright and trademark right. Currently, many of the craftsmen from Indonesia does not owned the protection of its copyright and many of its products have been copied by others therefore they have difficulties to compete and participate in exhibitions abroad. (source: from many)

#### **4. Madrid Protocol in The Discussion of Parliament**

The list of issues to be discussed for the Draft of amendment of our Trademark Law were given by the House of Representatives of the Republic of Indonesia on November 23, 2015 which essentially consist of the input and

suggestions from the House of Representatives to the Government on the proposed amendment of the Trademark Law.

In the suggestions submitted by the House of Representatives, there are some highlights on the Madrid Protocol (International Trademark Registration) whereas The House of Representatives considers that Indonesia still does not necessary to apply Madrid Protocol, and considers that it will become an obstacle to the development of some local SMEs brands.



Source: [www.inta.org](http://www.inta.org)

However, the Government through the Directorate General of Intellectual Property (DGIP) considers that the implementation of Madrid Protocol will allow people to register their trademark abroad without having the trouble in accessing their application.

DGIP gave an example that we could file a trademark in several countries, which will going to be processed through one door, and it will be directed to the designated countries, simply by

submitting the application in one country and it will also be applicable vice versa therefore Indonesia might also received even more incoming applications.

The implementation of Madrid Protocol would likely bring some ease for the Indonesian to start filing abroad which may increase the competitiveness of the Indonesian to the International community. However we still have to wait for the policy of the Indonesian authority in this matter. (source: from many)

#### **5. Ministerial Regulation on Requirements and Procedure of Recordal of IP License Agreement**

On February 24, 2016, the Government of Indonesia through the Ministry of Law and Human Rights has enacted the Ministerial Regulation No. 8 of 2016 concerning the Requirements and Procedure of Recordal of IP License Agreement.

This Ministerial Regulation is aiming to enhance the service and protection to the IP Rights Owner/Holder and/or licensee and also to support the development of industry and trade which shall bind any third party, therefore the government of Indonesia has enacted the said Ministerial Regulation.



*Source: www.techcorplegal.com*

The Ministerial Regulation stipulated that the requirements for filing the recordal of an IP License Agreement are as follows:

- a. A copy of the license agreement or proof of the License Agreement;
- b. A copy or an official excerpt of the Certificate of the concerned Patent, Trademark, Industrial Design, Integrated Circuit or the proof of ownership of the Copyrights, Neighboring Rights, and Trade Secrets which is being licensed is still valid;
- c. Original Power of Attorney, if the application is filed through proxy;
- d. A Statement Letter which shall be signed by the applicant (we will provide a template of the Statement Letter upon request); and
- e. Original payment receipt of the official fees;

The recordal of License Agreement shall valid for the period of 5 (five) years, which can be further renewed.

With the implementation of this Ministerial Regulation, the IP holders are able to file the recordal of their respective license agreement in Indonesia. Our firm would be glad to assist the patent holders to file the said recordal of license agreement in Indonesia. Please contact us should you need further assistance in this matter. (source: from many)

## **6. Workshop on Policies and Strategies towards a Conducive Technology Transfer Environment**

On March 1 to March 3, 2016, the Directorate General of Intellectual Property of Indonesia (DGIP) and Swiss Federal Institute of Intellectual Property has collaborated to held a 3 days workshop on Policies and Strategies towards a Conducive Technology Transfer Environment. The workshop was held at the DGIP office and was attended by several universities and researchers.

This workshop was aiming to enhance the process of technology transfer in Indonesia including the exploitation of inventions which were created by the Indonesians, especially from the universities and research center.

One of the means to effectively exploit inventions in Switzerland is by creating Technopark, and Mr. Matthias Holling from Technopark Zurich Foundation explained in details regarding technoparks in Europe especially in Switzerland.

In this workshop, the participants are eager to listen to the materials which were presented mostly by Mr. Holling, and there are also presenters from Indonesia such as Prof. Dr. I Gede Wenten from Bandung Institute of Technology and Dr. Nurul Taufiqurochman from the Indonesian Institute of Sciences (LIPI) who shares their success story and experience on exploiting their research and inventions.

And our government is now planning to establish more technoparks across Indonesia to stimulate Indonesian researchers to conduct research and invent more technologies to enhance our lives and future.

(source : from many)

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## **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)