



( Anno 1951 )

# BIRO OKTROI ROOSSENO

INTELLECTUAL PROPERTY PROTECTION, ADVOCACY &  
LEGAL CONSULTATION, TRADE SECRET AND LICENSING,  
FRANCHISING, LITIGATION (IPR), AND UNFAIR COMPETITION

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File No : - (please always quote our file No.)  
Our Ref : 7110/CRM-Circular/BOR-Clients/11/2024  
Your ref : -

Jakarta, November 18<sup>th</sup>, 2024

To: **OUR CLIENTS AND ASSOCIATES**

**Re: Circular for New Patent Law No 65 Year 2024 (The Third Amendment to the Indonesian Patent Law No. 13 Year 2016)**

Dear Valued Clients and Colleagues,

The Indonesian Government has made the third Amendment on the Patent Law, which previously amended through the Law No. 11 year 2020 concerning Job Creation which then amended by Law No. 6 year 2023, and currently it was amended for the Third time through Law No. 65 year 2024.

This amendment is to streamline the Patent Law with the dynamic development of technology practices.

Herewith we would like to convey that the Government of Indonesia has stipulated an amendment of the Patent Law which comes into effect on October 28, 2024.

Some important changes on Law No.65 Year 2024 concerning Patent are as follows:

**I. Definition**

Article 1 point 2:

Invention is an idea of an inventor embodied into a specific problem-solving activity in the field of technology which can be in the form of product and/or process, refinement, and/or development of a product and/or process, **as well as systems, methods, and uses.**

Article 1 point 18:

Definition of Traditional Knowledge

Article 1 point 19:

Definition of Genetic Resources



## II. Scope of Patent Protection

Article 4 Invention shall not include

- a. aesthetic creation;
  - b. Schema;
  - c. Methods for carrying out activities;
  - d. Computer program, **excludes Computer Implemented Invention;**
  - e. presentation of information;
  - f. is repealed; and
  - g. theories and methods in the fields of science and mathematics.
- f. the previous Article 4 poin f under the Law No 13, 2016 which was stated that  
*Discovery in the form of:*
1. *new use of existing and/or known product;*
  2. *new forms from existing compound which does not generate significantly enhanced efficacy and contains different relevant known chemical structures to compound is repealed.*

## III. Patentable of Invention

The stipulation of Article 4 f is concerning second medical use which previously not available and since this has been repealed, therefore second medical use is available in Indonesia.

Article 6:

The invention is not deemed to have been published within period of 12 (twelve) months prior to the Application Date (Grace Period for novelty is 12 (twelve) months).

The previous stipulation for grace period is 6 (six) months.

## IV. Implementation of Patent

Article 19 (1)(c):

*Patent Holder has the exclusive right to implement the patent, grants permission to implement the patent to other parties and to prohibit others who without the permission to implement the patent:*

*In terms of Method Patent, System and The Use: to use the method, system and the use which is patented or other acts as stipulated in point a.*

This new stipulation, aside from Process and Product Patent, Method Patent, System and The Use can be now registered.

Article 20 of the Patent Law No. 13 year 2016 amended by Law No. 11 year 2020 concerning Job Creation stipulates that the patent has to be implemented in Indonesia and whereas Method Patent is indeed available.



Article 20A:

*Patent Holder as stipulated in Article 20 shall submit a declaration on implementation of the Patent to the Ministry at the latest end of each year.*

Article 26:

Requirement to provide information on the Genetic Resources which must be issued by the Authorized Government Institution **is repealed**.

## **V. Application with Priority Rights**

Article 30 (5):

In the event that the application with Priority Right has not been filed in Indonesia within 12 (twelve) months, the application can still be filed at the latest of 4 (four) months as of the deadline of the said Priority Right and subject to a fee.

## **VI. Administrative Examination**

Article 34 (3)(a):

To acquire Filing Date, the minimum requirement has to be fulfilled. In the event the description is made in foreign language,

- a. If the description is written in a foreign language other than English, the description must be accompanied by translations into English and Indonesian, or
- b. if the description is written in English, the description must be accompanied by a translation in Indonesia.

the translation must be submitted within 30 (thirty) days as of Application Date.

Article 35:

Extension of time to fulfill the formality requirement can be requested for 2 (two) months only. 1 (one) month further extension is no longer available.

Article 36:

- (1) If the applicant did not fulfill the formality requirements, the application shall be deemed withdrawn;
- (2) If the application has been deemed withdrawn, the applicant can still re-file the application, which subject to a fee;
- (3) The re-filing of application can be filed at the latest of 6 (six) months as of the date of the Notification of Application Deemed Withdrawn.

The re-filing can be filed only to fulfill the formality requirement.

## **VII. Amendment of Application**

Article 39:

Amendment of application and its enclosure (description, claims and/or drawings) can be conducted as long as it does not broaden the scope of invention as filed. The amendment shall be subject to a fee.



## **VIII. Withdrawal Application**

Article 43:

The Application that has been withdrawn and already received the notification of withdrawal from the Indonesian Patent Office *can be requested for a re-filing of the application at the latest of 6 (six) months as of date of withdrawal notification letter.*

## **IX. Publication and Substantive Examination**

Article 46:

Accelerated Publication can be requested at the earliest of 3 (three) months as of the Filing Date upon a request from the Applicant and subject to a fee.

## **X. Substantive Examination**

Article 55A:

Substantive examination can be conducted earlier should formality requirements of the application deemed completed.

The early examination shall be requested by the applicant to the Patent Office and shall be subject to a fee. This request shall be requested at the latest before the application is published.

The examination result shall be provided at the end of the publication period.

Article 63A:

Substantive Re-examination can be requested to the Patent Office and subject to a fee.

Substantive Re-examination may be requested upon:

- a. Rejection;
- b. Correction on description, claims and/or drawings;
- c. Decision of Granted;
- d. Withdrawal of Application;
- e. Decision of Deemed to be Withdrawn.

Substantive Re-examination can be requested at the latest of 9 (nine) months as of the notification of granted, rejection and deemed withdrawn.

For withdrawn application, substantive Re-examination can be requested at the latest of 2 (two) months as of the decision of withdrawn.

Patent Office shall decide to grant or reject the request for re-examination within 12 (twelve) months as of the request date.



## **XI. Appeal Petition with Respect to Application Refusal**

Article 68 (1):

(1) Appeal can be filed at the latest of 3 (three) months as of the date of the notification of rejection or the date of the rejection of the re-examination.

## **XII. Request for a Compulsory Licensing**

Article 84A:

The provisions for granting a compulsory license are exempted in cases where there is a final and binding decision from the Business Competition Supervisory Commission stating that the implementation of the Patent has been proven to result in or cause monopolistic practices and unfair business competition.

## **XIII. Annual Fees**

Article 126 (4):

If the annuity fee payment exceeds the deadline as referred to in Paragraph (3), a grace period of 6 (six) months shall be provided which subject to a 100% penalty.


## **XIV. Miscellaneous Provisions**

Article 167 (b):

Exempted from the criminal provisions as referred to in Chapter XVII and civil lawsuit against:

Production of Patented pharmaceutical product in Indonesia prior the protection period ends for the purpose to process the permit and to do marketing after the termination of concerned Patent protection.

Yours Sincerely,  
**BIRO OKTROI ROOSSENO**

  
Ir. Migni Myriasandra, SH, MIP, MSEL, MM



(Since 1951)

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