

Introduction

The main objective of the publication by the Directorate General of Copyrights, Patents and Trademarks Department of Justice of this English Translation of Law Number 6 of 1989 concerning Patents and Law Number 6 of 1982 concerning Copyrights as Amended by Law Number 7 of 1987 is to assist foreign users.

Many people have contributed to the compilation of this book.

I would like to acknowledge, with the sincere gratitude and appreciation the effort and contribution made by :

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who have translated the Legislation from Indonesian into English.

Despite of possible shortcomings, I hope this book will be useful in serving the need particularly of the foreign users.

Tangerang, February 1993

Director General
Copyrights, Patents and Trademarks



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PREAMBLE

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 6 OF 1989 CONCERNING PATENTS

BY THE MERCY OF GOD ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- (a) that the state of the Republic of Indonesia is a legal state based on Pancasila (Five Principles of State Ideology) and the 1945 Constitution with the objective to achieve a just and prosperous society, equitably oriented both materially and spiritually;
- (b) that in the framework of the implementation of national development in general, and economic development in particular, technology has a very important role in the improvement and advancement of industry;
- (c) that in view of the importance of the role of technology in the improvement and advancement of industry, it is necessary to create a more favourable climate for technological discoveries and the means to provide the results of said activities with legal protection;
- (d) that in order to create the above mentioned climate and means for legal protection, it is deemed necessary to stipulate regulations concerning patent in the form of a law.

In view of :

1. Article 5 paragraph (1), Article 20 paragraph (1), and Article 33 paragraphs (1) and (2), of the 1945 Constitution;
2. Article 16 of Law No. 5 of 1984 regarding Industry (State Gazette of 1984 Number 22, Supplement to the State Gazette No. 3274);

With the approval of

THE PEOPLE'S HOUSE OF REPRESENTATIVES
OF THE REPUBLIC OF INDONESIA

D E C I D E S

To enact : The Patent Law.

CHAPTER I
GENERAL PROVISIONS

Article 1

Interpretation Under this Law :

- (1) A patent shall mean a special right which is given by the State to an inventor for his invention in the field of technology for a limited period, in which he shall himself exploit the invention or give his approval to any other person to exploit the same.
- (2) An invention shall mean an activity for the solution of a certain problem in a field of technology, and may be a process or a product, or an improvement or development of a process or a product.
- (3) An inventor shall mean a person or several persons jointly carrying out activities which produce an invention.

- (4) A patent holder shall mean the inventor as owner of the patent or any person or legal entity having received such right from the owner of the patent or other persons or legal entity having received further right from such person aforesaid, registered in the Patent Rolls.
- (5) A patent examiner shall mean an official who for his expertise is appointed by the Minister and assigned to examine patent application.
- (6) Minister shall mean the Minister whose scope of duty and responsibility include the administration of patents.
- (7) Patent Office shall mean an organizational unit within the sphere of a government department having authority and carrying out duties in the field of patents.

CHAPTER II SCOPE OF PATENTS

Part One Invention For Which Patent May Be Granted

Article 2

Patentable Inventions; Inventive Step.

- (1) A patent may be granted for a new invention which involves an inventive step and which can be applied in industry.

- (2) An invention involves an inventive step if said invention would not have been obvious to a person with the usual expertise in the technical field.
- (3) The judgement that an invention would not have been obvious should be made by assessing the expertise existing at the time a patent application is submitted, or in existence at the time a patent application is submitted or in existence at the time first application is submitted in case such application submitted is claiming a right of priority.

Article 3

Novelty.

An invention is not considered as new, if at the time the patent application is submitted :

- (a) said invention has been announced in Indonesia or outside Indonesia in a publication in a manner which enables an expert to use said invention; or
- (b) said invention has been announced in Indonesia through an oral explanation, or through a demonstration as to its use or in any other manner, so that it enables an expert to use said invention.

Article 4

Acts Not Destroying Novelty.

An invention is considered to be unannounced, if within a maximum period of 6 (six) months preceding the date of submission of a patent application :

- (a) the invention has been shown in an international exhibition in Indonesia or abroad, which is official, or acknowledged to be official, or in a national exhibition in Indonesia, which is official or acknowledged to be official;
- (b) the invention has been used in Indonesia by the inventor within the framework of experimentation for research and development purposes.

Article 5

Industrial Application.

An invention can be applied in industry if the invention may be produced or may be used in various types of industry.

Article 6

Simple Invention.

Any invention in the form of a new object, tool or product which does not possess the qualities of an invention, however, possesses practical utility because of its shape, configuration, construction or composition may obtain legal protection in the form of a simple patent.

/Part Two ---

Part Two
Invention Not Granted Patent or Patent Grant Deferred

Article 7
Unpatentable Inventions.

Patent shall not be granted for :

- (a) invention of processes or products whose publication and use or implementation contravene the prevailing rules and regulation public order or morality;
- (b) inventions of processes or food and beverage products including products in the form of materials which have been produced through a chemical process for the purpose of producing consummable food or beverages for human beings and/or animals;
- (c) inventions of a new kinds or variety of plants or animals, or any process whatsoever which may be used for the production of plants or animals as well as plant or animal products;
- (d) inventions of a method of examination, treatment, medical care and surgery which may be applied on human beings and animals, however, does not apply to products used in or connected with such methods;
- (e) invention of theories and methods in the field of science and mathematics.

Article 8
Deferrment of Patent Protection:

- (1) A Presidential Decree may stipulate that the granting of a patent for certain inventions in the form of a process or product may be deferred for a maximum period of 5 (five) years provided that said Decision shall not be effect with respect to :
- (a) inventions which at the date of the Decision have obtained or are granted patents:
 - (b) inventions which at the date of issuance of the Decision may apply for a patent claiming a right of priority.
- (2) Following the expiration of the deferred period as referred to in paragraph (1) a patent application shall be announced immediately, and a substantive examination shall commence, after the expiration of the announcement period as regulated under this law.

Part Three
Term of a Patent

Article 9
Term

- (1) A patent shall be granted for a period of fourteen years, as from date of the filing of the patent application.

(2) The date of effect and date of expiry of the patent period shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Article 10

Term of a Simple Patent.

A simple patent shall be granted for a period of five years as effect from the date of granting of the Simple Patent Certificate.

Part Four

Right To A Patent

Article 11

Subject of Patent.

- (1) Those entitled to a patent shall be the inventor or anyone subsequently receiving the right of such inventor.
- (2) If an invention has been jointly produced by several persons, then those subsequently receiving the right of such persons shall be jointly entitled to such invention.

Article 12
The Person Filing the Patent Application
Deemed To Be Inventor.

- (1) Unless proved otherwise, the party deemed as the inventor shall be those who file a patent application for the first time.
- (2) Those who file patent application as referred to in paragraph (1) shall not be granted a patent if the contents of the application contains information copied from the description and/or drawings of an invention made by another person and for which an application has already been filed or for which a patent has already been granted.

Article 13
Invention Made By An Employee.

- (1) Unless otherwise agreed in an employment agreement, those entitled to a patent on an invention which has been produced shall be the employer.
- (2) The provisions as referred to in paragraph (1) shall be also applicable to inventions produced by employees or workers who have used data and facilities available in their employment, despite their employment agreement does not require them to make an invention.

- (3) The inventors referred to in paragraphs (1) and (2) shall be entitled to receive a reasonable compensation with due observance to the economic benefits which can be derived from such invention.
- (4) Compensation as referred to in paragraph (3) may be paid:
 - (a) in a certain amount and in a lump sum; or
 - (b) on a percentage basis; or
 - (c) in a combination of a certain lump sum with a gift or bonus; or
 - (d) in a combination of percentage, with a gift or bonus; which amounts shall be determined by the relevant parties.
- (5) If no agreement is reached concerning the method of calculation and the determination of the amount of compensation, a decision shall be requested from the local Distric Court.
- (6) The provisions referred to in paragraphs (1), (2), and (3) shall not abrogate right of the inventor to have his name stated in the patent certificate.

Article 14

Right Derived From Prior Use.

- (1) Any person using an invention at the time a patent is applied for an identical invention shall remain entitle to use such invention as the first inventor even though

such identical invention is subsequently granted a patent.

- (2) The provisions in paragraph (1) shall also prevail for patent applications filed with priority rights.

Article 15

No Rights Where Patent Has Been Requested.

The provisions referred to in Article 14 shall not be effective if the person implementing such invention uses knowledge from descriptions, drawings, samples or other information of the invention for which patent has been requested.

Article 16

First Inventor Certificate

- (1) A person using an invention as referred to in Article 14 may be acknowledged as the first inventor, if he submits a patent application therefor to the Patent Office after a patent has been granted on the identical invention aforesaid.
- (2) An application for acknowledgement as the first inventor must be accompanied with evidence that such invention has not been made by using descriptions, drawings, samples or other information of the invention, for which patent has been requested.

- (3) Acknowledgement as the first inventor shall be given by the Patent Office in the form of a First Inventor Certificate and a fee must be paid therefor.
- (4) The First Inventor Certificate shall expire at the time patent of the identical invention expires.

Part Five
Rights And Obligations Of Patent Holder

Article 17
Rights

The patent holder shall have exclusive right to exploit commercially his patent individually or by giving his consent to other persons, namely :

- (a) to make, sell, lease, deliver, use, supply for sale or lease or delivery of the products for which patent has been granted;
- (b) to use production processes, which have been granted patent rights for the production of goods and other acts referred to in letter a.

Article 18
Obligation

The Patent Holder shall be obliged to use his patent within the territory of the Republic of Indonesia.

Article 19
Annual Fees

For the management of the validity of a patent and the registration of licences, the Patent Holder or Licence Holder of a patent shall be obliged to pay maintenance fees known as annual fees.

Part Six
Exception Of Implementation And Infringement Of Patent

Article 20
Import Does Not Constitute Implementation

The import of products which have been granted or made with processes which have been granted patent shall not constitute implementation of a patent.

Article 21
Import Does Not Constitute Infringement

The import of products which have been granted patent or their equivalent which are carried out by persons other than the Patent Holder shall not constitute an infringement of the relevant patent except in certain cases, which shall be further regulated by Government Regulations.

/Article 22 ---

Article 22

Acts Not Constitute Infringement

The use of an invention in the form of a product or a process, or the sale, lease, or delivery of the result of the use of such invention which has occurred at the time or prior to the granting of the relevant patent shall not constitute as infringement of such patent.

CHAPTER III

PATENT APPLICATION

Part One

General

Article 23

Application.

A patent shall be granted on the basis of an application.

Article 24

Unity of Invention.

A patent application may be filed for one invention only.

Article 25

Application Fee.

A patent application shall be filed to the Patent Office along with a fee, the amount of which shall be determined by the Minister.

Article 26

Devolution of Title.

- (1) If a patent application is filed by a person other than the inventor, such application must be accompanied with a statement and sufficient evidence that the patent application is entitled to the relevant invention.
- (2) The Patent Office shall be obliged to send a copy of the statement referred to in paragraph (1) to the inventor.
- (3) The inventor may examine the patent application filed by a person other than the inventor as referred to in paragraph (1) and at his own expense may request for a copy of such application.

Article 27

Patent Consultant.

- (1) A patent application may be filed by a Patent Consultant in Indonesia as the attorney, except in certain cases stipulated otherwise under this Law.
- (2) The Patent Consultant referred to in paragraph (1), shall be a consultant registered in the Patent Consultant Register at the Patent Office.
- (3) As from the date of receipt of a power of attorney, the Patent Consultant shall be obliged to safeguard the secrecy of the invention and all documents of the patent application until the date of announcement of the relevant patent application.

- (4) Provisions regarding requirements for registration as a Patent Consultant shall be regulated by a Government Regulation.

Article 28

Application By Non-residents.

- (1) A patent application filed by an inventor or a person entitled to an invention who is not residing or permanently domiciled in the territory of the Republic of Indonesia shall be filed through a patent consultant in Indonesia as the attorney.
- (2) The inventor or the person entitled to an invention, as mentioned in paragraph (1) shall declare and choose his residence or legal domicile in Indonesia for the purpose of such patent application.

Article 29

Application Claiming Priority Rights.

- (1) A patent application which is filed with priority right as regulated by the international convention for patent protection in which the Republic of Indonesia is a party, shall be submitted within a period of twelve months as from the date the first patent application is received by any country which is also a party to such convention.

- (2) With due observance to the provisions of this law concerning requirements which must be fulfilled by a patent application, a patent application with priority right as referred to in paragraph (1) shall be completed with a copy of the first patent request which has been certified as correct by the competent authorities in the relevant country within six months as from the date of such patent application, provided the time limit referred to in paragraph (1) is not exceeded.
- (3) If the provisions, contained in paragraphs (1) and (2) are not fulfilled, the patent application shall not be filed with priority right.

Article 30
Requirements

- (1) A patent application shall be made in writing in the Indonesian language to the Patent Office.
- (2) A patent application shall contain :
 - (a) the date, month and year of the application;
 - (b) the full and clear address of the person filing the patent application mentioned in letter a;
 - (c) the full name and nationality of the inventor;
 - (d) if the application is filed by another person as the attorney, such application must contain the full name and address of the relevant attorney;

- (e) a special power of attorney if the application is filed by an attorney;
 - (f) a request for a patent;
 - (g) the title of the invention;
 - (h) claims contained in the invention;
 - (i) a written description of the invention which fully discloses the manner of using the invention;
 - (j) drawings mentioned in the description which are required for the explanation;
 - (k) an abstract of the invention.
- (3) Further provisions for the filing of a patent application spacing shall be regulated by the Minister.

Part Two

Patent Application With Priority Right

Article 31

Requirements for Application Claiming Priority.

- (1) In addition to a copy of the application referred to Article 29 paragraph (2), the Patent Office may request that a patent application filed with priority right shall be supplemented with :
- (a) an official copy of the documents pertaining to the examination of the first patent application overseas.

- (b) an official copy of the patent documents which have been granted with respect to the first patent application made overseas;
 - (c) an official copy of the decision concerning the rejection of the first patent application made overseas in case such application is rejected;
 - (d) an official copy of the decision for the annulment of the relevant patent which has been issued overseas in case such patent has been annulled;
 - (e) other documents which may be required in order to facilitate the evaluation that the invention for which a patent has been requested is a new invention and actually contains an inventive step.
- (2) The submission of the copies of the documents referred to in paragraph (1) may be supplemented with a separate clarification by the patent application.

Article 32
Further Provision

Further provision pertaining to patent applications filed with priority rights shall be regulated by the Government Regulations.

Part Three
Receipt of A Patent Application

Article 33
Filing Date

- (1) A patent application is deemed to have been filed on the date of receipt of the patent application by the Patent Office and the fee referred to in article 25 has been paid.
- (2) The date of filing of a patent application shall be the date the Patent Office receives a patent application which fulfills the requirements referred to in article 30. and in the case of a patent application claiming priority right the requirements stipulated in Articles 29 and 31 have been fulfilled.
- (3) The date of filing of a patent application for a patent shall be recorded by the Patent Office.

Article 34
Completion of Requirements

- (1) If in fact the requirements referred to in article 30 are incomplete the Patent Office shall request that the correction of such deficiencies should be made within 3 (three) months as of the date of delivery of a notification therefor by the Patent Office.

(2) Based on reasons acceptable to the Patent Office, the period referred to in paragraph (1) may be extended for a maximum of 3 (three) months upon the request of the patent application.

Article 35
Date of Receipt

In the event of deficiencies as referred to in article 34, the filing date of the patent application shall be the date of receipt of the correction of such deficiencies at the Patent Office.

Article 36
Failure To Correct Deficiencies.

In the event deficiencies are not corrected within the time frame provided in article 34, the Patent Office shall notify the patent applicant in writing that such patent application is deemed to have been withdrawn.

/Article 37 ---

Article 37

Identical Inventions and the same Inventor.

If during the initial examination there are two or more patent applications for the same invention and anyone of such application is filed with priority rights by the same the patent applicant. the Patent Office is entitled to reject such application on the basis that only one application may be filed for one inventor.

Article 38

Identical Applications Filed By Different Persons

- (1) In the event one or more patent applications are filed by different persons for the same invention, only the application which is earlier filed or filed first shall be accepted.
- (2) If the applications referred to in paragraph (1) are filed on the same date, then the Patent Office shall request in writing to the persons filing such applications to discuss and decide which of the applications shall be filed and inform the decision therefor to the Patent Office no later than 6 (six) months as from the date of delivery of such request.

- (3) If a decision or agreement is not reached among those filing such patent applications, or it is not possible to hold negotiations or the result of such negotiations has not been notified to the Patent Office within the time frame stipulated in paragraph (2), then such patent applications shall be rejected and the Patent Office shall announce such matter in writing to the persons filing such patent applications.

Part Four
Amendment of a Patent Application

Article 39
Amendments

- (1) A patent application may be amended provided that such amendment does not extend the scope of protection which has been filed in the original application.
- (2) The amendments of an application referred to in paragraph (1) shall be deemed to have been filed on the same date as the original application.

/Article 40 ---

Article 40
Procedure for Amendment

- (1) The amendments of an application as referred to in article 39 may be filed separately in one or more applications. however, with the provision that the scope of protection requested in each application does not exceed the scope of protection filed in the original application.
- (2) In the event such amendment constitutes a separation of an application referred to in paragraph (1). such application shall be deemed to have been filed on the same date as the filing date of the original application.

Part Five
Withdrawal of Patent Application

Article 41
Withdrawal of Application.

- (1) A patent application may be withdrawn by submitting a written request to the Patent Office.
- (2) Further provisions concerning the withdrawal of a patent application shall be regulated by Government Regulations.

Part Six
Extension of Validity Period

Article 42
Duration of Extension Term.

Upon the request of the Patent Holder, the validity period of a patent may be extended once for a period of two years.

Article 43
Procedure For Extension

- (1) Any application for the extension of the validity period of a patent as referred to in Article 42 must fulfill the following requirements :
- (a) the application must be submitted in writing no earlier than 12 (twelve) months and at least 6 (six) months before the expiration of the patent period;
 - (b) the Patent Holder shall submit convincing evidence to the Patent Office that :
 - (i) the earning gained from the use of the patent is not sufficient to cover the cost of research and development activities which produced the invention for which such patent has been granted;
 - (ii) the patent has been used continuously in Indonesia and will continue to be used in order to meet the needs of Indonesia or for export purposes.

- (2) The decision of the approval or rejection of an application for the extension of the validity period of a patent shall be notified in writing to the Patent Holder.
- (3) In the event such application is rejected, the reasons therefor shall be elucidated in the notification.

Article 44

Recordation of Decision.

The decision of an approval or rejection of an application for extension of the validity period of a patent shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Part Seven

Prohibition To File Patent Application and Obligation To Safeguard Secrecy

Article 45

Prohibition on Employees of Patent Office.

While still bound in active service and until 1 (one) year after retirement or after ceasing to work at the Patent Office for whatever reason, an employee of the Patent Office or any person who, due to his assignment has been working for and on behalf of the Patent Office, shall not be permitted to file a patent application, to obtain a patent or in any other manner obtain a right or hold a right in relation to a patent, unless ownership of a patent is due to inheritance.

Article 46
Secrecy Until Announcement of Application

As of the date of receipt of a patent application, all officials of the Patent Office shall be obliged to keep secret the invention and all documents of the patent application, until the date time the relevant patent is announced.

CHAPTER IV
EXAMINATION

Part One
Publication of Patent Applications

Article 47
Announcement

- (1) The Patent Office shall announce patent applications which have fulfilled the requirements of Articles 29, 30 and 31 and applications which have not been withdrawn.
- (2) The announcement shall be made no later than :
 - (a) six months after the date of receipt of the patent application;
 - (b) twelve months after the date of filing of the patent application for the first time, in case of patent applications with priority right.

Article 48

Publication of Announcement.

- (1) An announcement shall prevail for six months and shall be carried out by:
 - (a) placing such announcement on announcement boards exclusively provided for such purpose and which may be easily and clearly seen by the public, and;
 - (b) placing such announcement in the Patent Official Gazette periodically published by the Patent Office.
- (2) The commencement date of the announcement of a patent application shall be registered by the Patent Office in the register of announcements.

Article 49

Details of Publication

An publication shall be made by containing :

- (a) the full name and address of the inventor or the person entitled to the invention and the attorney in the case an application is filed through a patent consultant;
- (b) the patent application number;
- (c) the title of the invention;
- (d) the filing date of the patent application or in the case a patent application is filed with priority rights, the date, number and country in which a patent application has been filed for the first time;
- (e) abstract.

Article 50

Public Inspection of Patent Application.

The Patent Office shall provide a special place for any concerned member of the public to have the opportunity to inspect documents of the relevant patent applications.

Article 51

Public Opinion on Patent Application.

- (1) During the period of announcement, any person after having seen the announcement of a patent application, may submit a written opinion or objections on the relevant patent application together with his reasons.
- (2) In the event of any opinion or objection as referred to in paragraph (1), the Patent Office shall immediately send a copy of the letter containing such opinion or objections to the patent application.
- (3) The patent applicant shall be entitled to submit in writing any denial or explanation regarding such opinion or objections to the Patent Office.
- (4) The Patent Office shall use the opinion or objections, denials or explanation as referred to in paragraph (1) and paragraph (3) as additional information for consideration in the examination level of the relevant patent application.

Article 52

Prohibition of Publication

- (1) With the approval of the Minister, the Patent Office may decide not to publish a patent application if in its opinion such invention and its publication may disrupt or contravene defence and security interests of the State.
- (2) The decision not to publish a patent application as referred to in paragraph (1) shall be notified in writing to the patent applicant by the Patent Office, with a copy to the inventor or the person entitled to the invention if such patent application is filed by its patent consultant.
- (3) The provisions of Articles 48 and 49 shall not apply to any patent applications which are not published.
- (4) Consultations held by the Patent Office with other government agencies, including the giving of information concerning an invention for which a patent has been applied, in respect of which the ultimate decision is not to publish the patent application, shall not be deemed as a violation of the obligation to safeguard the secrecy of the invention and the documents of the relevant patent application.

- (5) The provisions of paragraph (4) shall not diminish the obligation of the relevant Government agencies and their apparatus to safeguard the secrecy of the invention and the documents of the patent application which has been consulted, from any third parties.

Article 53

Examination of Un-announced Applications.

- (1) With respect to a patent application which has not been published, an examination as to whether or not a patent may be granted shall be carried out if:
- (a) a period of 6 (six) months has elapsed from the date of the decision of the Patent Office not to publish nounce the relevant patent application; and
 - (b) such patent application has not been withdrawn.
- (2) The examination of patent application as referred to in paragraph (1) shall be conducted by the Government without imposing any examination fee on the patent applicant.

Article 54

Further Provisions.

Further provisions concerning announcement shall be regulated by the Minister.

/Part Two ---

Part Two
Examination

Article 55
Request For Examination.

- (1) A request for examination of a patent application shall be submitted in writing to the Patent Office along with the payment of a fee to be determined by the Minister.
- (2) The request as referred to in paragraph (1) shall be for a substantive examination.
- (3) The form and requirements for the request for an examination shall be further regulated by the Minister.

Article 56
Time Frame For Examination Request.

- (1) The application for substantive examination must be submitted no later than 36 (thirty six) months from the date of receipt of a patent application, however, no earlier than the termination of announcement period as referred to in Article 48.
- (2) If a request for examination has not been made after the expiration of the time limit referred to in paragraph (1), or the fee therefor has not been paid, such patent application shall be deemed to have been withdrawn.

- (3) The Patent Office shall notify the patent applicant in writing of the decision of withdrawal of such patent application, with a copy to the inventor or the person entitled to the invention if the patent application is filed by its patent consultant.

Article 57

Exemption For Un-announced Applications.

Without prejudice to all preceding provisions on examination, the provisions of Article 51 shall not apply to patent applications which have not been published.

Article 58

Assistance of Experts.

- (1) For the purpose of conducting substantive examination, Patent Office may request the assistance of an expert and/or utilise the necessary facilities of other Government agencies.
- (2) The use of the assistance of an expert and/or facilities as referred to in paragraph (1) shall be made with due observance to the provisions concerning the obligation to safeguard the secrecy of the invention for which a patent has been applied.

/Article 59 ---

Article 59

Patent Examiner.

- (1) A substantive examination shall be conducted by a Patent Examiner from the Patent Office or any other Government agency qualified as a Patent Examiner.
- (2) A patent examiner is a functional official and appointed by the Minister on the basis of certain conditions.
- (3) A Patent Examiner shall be accorded a functional rank and allowance in addition to other rights in accordance with the prevailing rules and regulations.

Article 60

Examination Procedure.

- (1) In the event a Patent Examiner reports that an invention for which a patent has been applied in fact contains ambiguity or other deficiencies which are considered important, the Patent Office shall notify the results of such examination in writing to the patent applicant.
- (2) The notification of the examination results must state clearly and in detail the matters considered as ambiguous or other deficiencies which are considered important, along with the reasons and references used in the examination, as well as an opinion and suggestions to the patent applicant including the possibility of any necessary changes and improvements to be made, and the time frame to complete the same.

- (3) If following the notification as referred to in paragraph (1) the patent applicant does not provide any clarification or correct the deficiencies, including making any change or improvements on an application, which has been filed within the stipulated time frame, the Patent Office may refuse such patent application.

Part Three

Approval or Refusal of Patent Applications

Article 61

Time Period To Conclude Examination.

The Patent Office shall be obliged to decide to approve a patent application and thus grant a patent, or refuse the same, no later than twenty four months as from the date of receipt of an application for substantive examination.

Article 62

Refusal of Application.

- (1) If the result of the examination conducted by the Patent Examiner shows that the invention for which a patent has been applied does not fulfill the provisions of Article 2, Article 3 and Article 5, the Patent Office shall refuse such patent application and notify such matter in writing to the patent applicant.

- (2) In the event the patent application is filed by a Patent Consultant, a copy of the notification as referred to in paragraph (1) shall be given to the inventor or the person entitled to such invention.
- (3) Any notification containing the refusal of a patent application must clearly state the reasons and considerations constituting the basis of such refusal.

Article 63

Other Grounds For Refusal.

In addition to the provisions of Article 62, a patent application must also be refused if the invention and its use contravene the rules and regulations, public order and morality.

Article 64

Grant of Patent.

- (1) If the report on the result of an examination of an invention for which patent has been applied and which has been conducted by a Patent Examiner concludes that such invention complies with Article 2, Article 3, Article 5 and other provisions of this law, the Patent Office shall officially issue a Patent Certificate for the relevant invention to the patent applicant or in the event the patent application is filed by a Patent Consultant, a copy of such

Patent Certificate shall be given to the inventor or such person entitled to such invention.

- (2) The patent which has been granted shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.
- (3) The Patent Office may provide a copy of the patent documents to the members of the public requiring the same upon payment of the fee for such copy, the amount of which shall be determined by the Minister.

Article 65

Recordation of Refusal or Grant.

- (1) A Patent certificate constitutes evidence of the granting of a patent by the Patent Office and shall be recorded in the Patent Rolls.
- (2) A letter containing refusal of a patent application shall be recorded in the Patent Official Register which records the relevant patent application.
- (3) The granting of a Patent Certificate and refusal of a patent application shall be announced by the Patent Office in the same manner as the announcement of a patent application.

/Article 66 ---

Article 66

Validity.

A patent shall be effective as of the date it is granted and shall be valid retroactively as of the date of receipt of the patent application.

Article 67

Further Provisions

- (1) Further provisions concerning the granting of the Patent Certificate, its form and contents shall be regulated by Government Regulations.
- (2) Other provisions concerning the recordation and request for copies of the patent documents shall be regulated by the Minister.

Part Four

Appeal

Article 68

Appeal: Patent Appeal Commission.

- (1) An appeal may be filed against the refusal of a patent application in respect of reasons and basic considerations pertaining to substantive matters as referred to in Article 62 paragraph (1).

- (2) A request for appeal shall be filed in writing by the patent applicant or patent consultant, to the Patent Appeal Commission, with a copy to the Patent Office.
- (3) The Patent Appeal Commission is a special body presided over permanently by a chairman serving concurrently as a member of the Commission and organized within the sphere of a department headed by a Minister.
- (4) The number of the members of the Patent Appeal Commission shall be odd and at least three persons and shall consist of several experts in the necessary field and a senior Patent Examiner who has not conducted substantive examination on the relevant patent application.
- (5) The chairman and members of the Patent Appeal Commission shall be appointed and dismissed by the Minister.

Article 69

Contents of Appeal.

- (1) A request for appeal shall be filed with a detailed description of the objections against the refusal of the patent application and the reasons therefor.
- (2) The reasons as referred to in paragraph (1) must not constitute new reasons, explanations or evidence, nor improvement or completion of the patent application which has been refused.

/Article 70 ----

Article 70
Time Frame For Appeal.

- (1) A request for appeal must be filed no later than 3 (three) months as of the date of notification of refusal of the patent application.
- (2) If the time frame of such appeal request has elapsed without any request for appeal, then the refusal of the patent application shall be deemed to have been accepted by the patent applicant.
- (3) In the event the refusal of patent application is deemed to have been accepted as referred to in paragraph (2), the Patent Office shall record the same in the Patent Official Register.

Article 71
Decision of Appeal.

- (1) The decision of the Patent Appeal Commission on a request for appeal shall be made no later than twelve months as of the date of receipt of such appeal request.
- (2) The decision of the Patent Appeal Commission shall be final.
- (3) In the event the Patent Appeal Commission accepts a request for appeal, the Patent Office shall grant a Patent Certificate as regulated under this law.

- (4) Should the Patent Appeal Commission refuse a request for appeal, the Patent Office shall immediately announce such refusal.

Article 72

Further Provisions.

The organizational structure, work procedures of the Patent Appeal Commission, procedures for application and examination of appeal and its settlement shall be further regulated by Government Regulations.

CHAPTER V

TRANSFER OF A PATENT

Part One

Transfer of Patent Ownership

Article 73

Transfer of Patent Ownership.

- (1) A patent or the ownership of a patent may be transferred in whole or in part due to :
- (a) inheritance.
 - (b) legacy.
 - (c) will.
 - (d) agreement, provided that such agreement has been drawn up in the form of a Notarial Deed.
 - (e) other reasons justified by law.

- (2) The transfer of a patent as referred to in paragraph 1 letters a, b, and c shall be accompanied with patent documents and other rights pertaining to such patent.
- (3) All forms of patent transfer as referred to in paragraph (1) must be registered at the Patent Office and recorded in the Patent Rolls and a fee therefor shall be paid, the amount of which shall be determined by the Minister.
- (4) A transfer which is not made in accordance with the provisions of this article shall not be valid and effective.
- (5) The conditions and procedures for the registration and recordation of a patent transfer shall be further regulated by the Minister.

Article 74

Transfer of Right as First Inventor.

- (1) Except in the event of inheritance and assignment or transfer made together with a part or all of its business, the right as first inventor shall not be assigned or transferred to any other person.
- (2) The assignment or transfer of the right as first inventor must be registered with the Patent Office which shall further record the same in the Patent Rolls.
- (3) The Patent Office shall announce the assignment or transfer of right as referred to in paragraph (2) in the Patent Official Gazette.

Article 75
Identity of Inventor Due To Transfer.

The transfer of the ownership of a patent shall not obliterate the right of the inventor to have his name and any other identity included in the relevant patent.

Part Two
Licence

Article 76
Right of Patent Holder.

- (1) The Patent Holder shall be entitled to give a licence to another person pursuant to a licence agreement for the performance of the acts referred to in Article 17.
- (2) Unless otherwise agreed, the scope of the licence referred to in paragraph (1) shall cover all acts as referred to in Article 17, which shall be effective during the term of the licence, and shall be valid for the whole territory of the Republic of Indonesia.

/Article 77 ---

Article 77
Performance of Acts

Unless otherwise agreed, a Patent Holder may continue to perform by himself or give a licence to any other third parties to perform the acts referred to in Article 17.

Article 78

Prohibited Provisions in Licence Agreements.

- (1) A licence agreement shall not contain provisions which may directly or indirectly be detrimental to the economy of Indonesia, or contain restriction which hamper the capabilities of the Indonesian people to master and develop technology in general and with respect to inventions for which patent has been granted, in particular.
- (2) The registration and request for the recordation of any licence agreement which contains provisions as referred to in paragraph (1) must be refused by the Patent Office.

Article 79

Registration of Licence Agreement.

- (1) A licence agreement shall be registered with the Patent Office and recorded in the Patent Rolls and a fee must be paid, which amount shall be determined by the Minister.

(2) The conditions and procedure for the registration and recordation of a licence agreement shall be further regulated by Government Regulations.

Article 80
Further Provisions

Further provisions concerning licence agreements shall be further regulated by Government Regulations.

Part Three
Compulsory Licence

Article S1
Definition

A Compulsory Licence is a licence to implement a patent which has been granted by the District Court after having heard the relevant Patent Holder.

Article S2
Application for Compulsory Licence

(1) Any person may, after the expiration of thirty six months as from the date a patent has been granted, submit an application for a Compulsory Licence with the District Court to implement the relevant patent.

- (2) The application for a Compulsory Licence as referred to in paragraph (1) may only be submitted on the grounds that the relevant patent is not implemented in Indonesia by the Patent Holder in spite of the opportunity to implement such patent commercially.
- (3) With due observance the capabilities and development of circumstances, the Government may stipulate that during the initial implementation stage of this law, any application for Compulsory Licence shall be submitted to a certain District Court.

Article 83

Approval of Compulsory Licence

- (1) In addition to the truth of the reason referred to in Article 82 paragraph (2), a Compulsory Licence may only be given if:
 - (a) the person submitting such application may show convincing evidence that he:
 - (i) has the capability to fully implement the patent himself;
 - (ii) has his own facilities for the immediate implementation of the patent.
 - (b) the District Court opines that such patent may be implemented in Indonesia on a feasible economic scale and may benefit a majority of the society.

- (2) The examination on the application for Compulsory Licence shall be conducted by the District Court in a court session by hearing the opinion of experts from the Patent Office and the Patent Holder concerned.
- (3) A Compulsory Licence shall be given for a period which does not exceed the period for the implementation of a patent and shall be further regulated by Government Regulations.

Article 84

Deferment or Refusal of Application.

If based on the evidence and opinion referred to in article 83, the District Court is convinced that the time frame referred to in Article 82 is not sufficient for the Patent Holder to implement such patent commercially in Indonesia, the District Court may decide to either adjourn the court session or dismiss the application for Compulsory Licence.

Article 85

Royalty Payments.

- (1) The implementation of a Compulsory Licence shall include payment of royalty by the Compulsory Licence Holder to the Patent Holder.

- (2) The amount of royalty which must be paid and the method of payment shall be determined by the District Court giving the Compulsory Licence.
- (3) The determination of the amount of royalty shall be made by taking into account the normal procedure in patent licence agreements or other similar agreements.

Article 86

Judgement of District Court.

The judgement of the District Court with respect to the issuance of a Compulsory Licence shall contain the following:

- (a) the reasons for issuance of the Compulsory Licence;
- (b) evidence including a convincing statement or explanation to be used as the basis for the issuance of the Compulsory Licence;
- (c) the validity period of the Compulsory Licence;
- (d) the amount of royalty which must be paid by the Compulsory Licence Holder to the Patent Holder and the method of payment therefor;
- (e) conditions for the termination of a Compulsory Licence and matter which may cancel the same;
- (f) other matters necessary to protect the interest of the relevant parties in a fair manner.

Article 87

Registration of Compulsory Licence.

- (1) A Compulsory Licence Holder shall be obligated to register the Compulsory Licence which he has received at the Patent Office and recorded in the Patent Rolls.
- (2) A Compulsory Licence which has been registered shall be immediately announced by the Patent Office in the Patent Official Gazette.
- (3) Registration of a Compulsory Licence shall be subject to a fee, the amount of which shall be determined by the Minister.
- (4) A Compulsory Licence shall be effective after the registration and payment of fees as referred to in paragraph (3).
- (5) The implementation of a Compulsory Licence shall be deemed as the implementation of a patent.

Article 88

Other Reasons For Compulsory Licence

- (1) A Compulsory Licence may at any time be applied by the Patent Holder on the ground that the implementation of his patent cannot be carried out without infringing another existing patent.

- (2) The application for a Compulsory Licence as referred to in paragraph (1) may only be considered if the patent to be implemented actually contains an element of technological reform which in fact is more advanced than the existing patent.
- (3) Provisions pertaining to the filing of an application to the District Court, the royalty payments, court judgment, registration and recordation, as well as the time frame or revocation of a Compulsory Licence as stipulated in Part Three of this Chapter shall also also prevail with respect to an application for Compulsory Licence as referred to in paragraphs (1) and (2), except provisions concerning the time frame for filing an application as provided in Article 82 paragraph (1).

Article 89

Revocation of Compulsory Licence.

- (1) Upon the request of the Patent Holder, the District Court may revoke a Compulsory Licence which has been granted if:
 - (a) the underlying reasons for the granting of a Compulsory Licence no longer exist;
 - (b) the holder of a Compulsory Licence in fact has not implemented such Compulsory Licence or has not made any appropriate preparation for its immediate implementation;

- (c) the holder of a Compulsory Licence no longer complies with other terms and conditions including the obligation to pay royalties which has been determined in the granting of the Compulsory Licence.
- (2) In the event the District Court decides to revoke a Compulsory Licence, then no later than 14 (fourteen) days as of the date of the judgement of the District Court a copy of such judgement must be delivered to the Patent Office for recordation in the Patent Rolls and announcement in the Patent Official Gazette.
- (3) The Patent Office shall be obligated to notify the recordation and announcement of the judgement of the District Court as referred to in paragraph (2) to the Patent Holder, the holder of the Compulsory Licence which has been revoked and the District Court adjudging such revocation no later than 14 (fourteen) days following the receipt of such judgement of the District Court.

Article 90

Expiration of Compulsory Licence.

- (1) A Compulsory Licence shall expire at the end of the period specified in its issuance, or in the event the same is revoked or the Holder of the Compulsory Licence returns the same to the Patent Office before the expiry of such time frame.

(2) The Patent Office shall record a Compulsory Licence which has expired in the Patent Rolls, announce the same in the Patent Official Gazette and notify in writing the Patent Holder and the District Court which granted such Compulsory Licence.

Article 91

Restoration of Rights of Patent Holder

The revocation or expiration of a Compulsory Licence as referred to in Article 89 and Article 90 shall restore the rights of the Patent Holder on the relevant Patent with effect from the date of recordation in the Patent Rolls.

Article 92

Assignment of Compulsory Licence.

- (1) A Compulsory Licence shall not be assigned except due to inheritance.
- (2) A Compulsory Licence which has been assigned due to inheritance shall remain bound by the terms of its issuance and other provisions particularly with regard to the time frame, and must be notified to the Patent Office for recordation in the Patent Rolls.

/Article 93 ---

Article 93
Further Provisions

Further provisions regarding Compulsory Licence shall be regulated by Government Regulation.

CHAPTER VI
CANCELLATION OF A PATENT

Part One
Patent Cancelled By Law

Article 94
Basis for Cancellation

- (1) A Patent may be declared as cancelled by law by the Patent Office in the event :
 - (a) the patent is not implemented within forty eight months as of the date of granting of such patent.
 - (b) failure to pay annual fees within the time frame as stipulated under this law.
- (2) Patents, as referred to in Article 105 paragraph (2) are exempted from the provisions of paragraph (1).

/Article 95 ---

Article 95
Notification of Cancellation

- (1) The cancellation of a patent by law shall be notified in writing by the Patent Office to the Patent Holder and relevant Patent Licence Holder and shall be effective as of the date of the notification.
- (2) The cancellation of a patent due to reasons as referred to in Article 94 paragraph (1) shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Part Two
Cancellation Upon Request of Patent Holder

Article 96
Request for Cancellation

- (1) A patent may be cancelled completely or partially by the Patent Office upon the written request of the Patent Holder to the Patent Office.
- (2) The cancellation of a patent as referred to in paragraph (1) cannot be effected, if the person registered in the Patent Rolls as holder of the licence to implement the relevant patent has not provided a written approval attached to such application for the cancellation.

- (3) The decision for the cancellation of a patent shall be notified in writing by the Patent Office to the Patent Holder and to any person recorded in the Patent Rolls as Holder of the relevant Patent Licence.
- (4) The decision of a cancellation of a patent due to reasons as referred to in paragraph (1) shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.
- (5) The cancellation of a patent shall be effective as of the date of the decision of the Patent Office concerning such cancellation.

Part Three

Patent Cancellation Due To Lawsuit

Article 97

Basis for Cancellation

- (1) A lawsuit for the cancellation of a patent may be made in the event :
 - (a) pursuant to the provisions of Article 2 and 7, such patent should not have been granted;
 - (b) the patent is similar with other patents which has been granted to other persons pursuant to this law.
- (2) A lawsuit for cancellation due to reasons as referred to in paragraph (1) letter a, shall be filed by a third party against the Patent Holder to the District Court of Central Jakarta.

(3) A lawsuit for cancellation due to reasons as referred to in paragraph (1) letter b shall be filed by the Patent Holder or Licence Holder to the District Court of Central Jakarta so that other patents which are similar to its patents shall be cancelled.

Article 98 Partial Cancellation

If a lawsuit for the cancellation of a patent as referred to in Article 97 only concern one or several claims, or a part of the claim only, then cancellation shall be granted for matters for which cancellation has been claimed.

Article 99 Notification of Cancellation

- (1) A copy of the lawsuit and judgement of the District Court of Central Jakarta concerning the cancellation of a patent shall be delivered immediately by the Registrar of the District Court of Central Jakarta to the Patent Office.
- (2) The Patent Office shall record the lawsuit and judgement concerning patent cancellation in the Patent Rolls and announced in the Patent Official Gazette.

Part Four
Effect of Patent Cancellation

Article 100
Effect of Cancellation

The cancellation of a patent shall nullify all legal consequences related with the patent and all other rights originating from such patent.

Article 101
Date of Effect of Cancellation

Unless otherwise determined by a judgement of the District Court of Central Jakarta, the cancellation of a patent in full or partially shall be effective as of the date of judgement of such cancellation.

Article 102
Licence of Cancelled Patent

- (1) The Licence Holder of a patent which has been cancelled by law shall remain entitled to implement his licence until the expiration of the time frame stipulated in the licence agreement.
- (2) The Licence Holder as referred to in paragraph (1) shall not be required to continue paying royalties which he would otherwise be required to pay.

/(3) In ---

- (3) In the event the Patent Holder has received in advance royalty in one lump sum from the Licence Holder, such Patent Holder shall not be obliged to refund an amount of the royalty in proportion to the remaining period of the utilization of the licence.

Article 103

Licences in Good Faith Remain Valid.

- (1) The licence of a patent which has been declared as cancelled due to reasons as referred to in Article 97 paragraph (1) letter b which has been obtained in good faith prior to the lawsuit for the cancellation of the relevant patent, shall remain valid with respect to other patents.
- (2) The licence as referred to in paragraph (1) shall remain valid on the condition that such Licence Holder shall be further required to pay royalty to the Patent Holder of the patent which has not been cancelled, in the same amount as previously agreed with the Patent Holder of the cancelled patent.

CHAPTER VII
IMPLEMENTATION OF PATENT BY THE GOVERNMENT

Article 104

Decision of Government to Implement a Patent.

- (1) Should the Government opine that a patent in Indonesia is very important for the defence and security of the State, the Government may implement the relevant patent itself.
- (2) The decision to implement a patent itself shall be stipulated by a Presidential Decision after hearing the consideration of the Minister and the Minister in-charge of State defence and security.

Article 105

Government Implementation of Unannounced Patent.

- (1) The provisions of Article 104 shall also apply to an invention for which patent has been requested, however, has not been announced as stipulated in Article 52.
- (2) In the event the Government does not or does not yet intend to implement a patent itself as referred to in paragraph (1), the implementation of a similar patent shall only be carried out with the approval of the Government.
- (3) The Patent Holder, as referred to in paragraph (2) shall be exempted from the obligation to pay annual fees until such patent has been implemented.

/Article 106 ---

Article 106

Notification To Patent Holder And Compensation.

- (1) In the event the Government intends to implement a patent itself for the defence and security of the State, the Government shall inform such matter to the Patent Holder in writing by stating:
 - (a) the relevant patent and its title and number;
 - (b) the reasons;
 - (c) the period of implementation;
 - (d) other matters considered important.
- (2) The Government shall pay a reasonable amount of compensation to the Patent Holder for the implementation of the patent.

Article 107

Objection.

- (1) The decision of Government to implement a patent itself shall be final.
- (2) In the event the Patent Holder does not agree with the amount of compensation as determined by the Government, an objection to that effect may be filed to the District of Court of Central Jakarta.
- (3) The objection as referred to in paragraph (2) shall be filed as a civil claim.

(4) The examination process of the claim as referred to in paragraph (3) shall not stop the implementation of the patent by the Government.

Article 108
Further Provisions

Further implementation of the provisions contained in this Chapter shall be regulated by Government Regulations.

CHAPTER VIII
SIMPLE PATENTS

Article 109
Provisions

Except for matters which have been specially regulated for simple patents, all other provisions regarding patents as regulated under this law shall apply to Simple Patents.

Article 110
Procedure for Grant

- (1) A Simple Patent shall only be granted for one claim.
- (2) A substantive examination shall be conducted immediately with respect to an application for a simple patent.

/Article 111 ---

Article 111
Grant or Refusal.

- (1) A Simple Patent Certificate shall be issued by the Patent Office for a Simple Patent.
- (2) A Simple Patent which has been granted by the Patent Office as referred to in paragraph (1) shall be recorded in the Simple Patent Rolls.
- (3) The refusal of an application for a Simple Patent may not be appealed to the Patent Appeal Commission.

Article 112
No Extension and Compulsory Licence

- (1) The period of a Simple Patent as referred to in Article 10 may not be extended.
- (2) An application for a Compulsory Licence may not be made in respect of Simple Patent and no annual fees shall be imposed.

Article 113
Further Provisions

Further provisions concerning Simple Patents shall be regulated by the Minister.

CHAPTER IX

F E E S

Article 114

General

- (1) A fee, the amount of which shall be determined by the Minister must be paid for the filing of each patent application, application for examination, extension of the time frame of a patent, Certificate of First User, excerpt from the Patent Rolls and copies of Patent Certificate, copies of patent documents, recordation of patent transfer, registration of Licence Agreements, registration of Compulsory Licence and other matters stipulated under this law.
- (2) Further provisions regarding the terms, time frame and procedure for payment of such fees shall be regulated by the Minister.

Article 115

Annual Fees.

The first payment of the annual fees must be made no later than one year from the date a patent is granted or registration of a licence and for each subsequent year during the term of the patent or licence, payment shall be made no later than the same date as the granting the patent or registration of the licence concerned.

/Article 116 ---

Article 116

Expiration Due to Non-Payment

- (1) If for three consecutive years the Patent Holder fails to pay annual fees as stipulated in Article 19 and Article 115, the patent shall be deemed to have expired as from the date constituting the time limit for payment of the third year.
- (2) If the non-payment of such annual fees is related with the obligation to pay annual fees for the twelfth year and thereafter, the patent shall be deemed to have expired on the last date for payment of the annual fee for the relevant year.
- (3) The expiry of the time frame of a patent due to reasons as referred to in paragraph (1) shall be recorded in the Patent Rolls and announced in the Patent Official Gazette.

Article 117

Late Payment of Fees.

- (1) Except in circumstances referred to in Article 116 paragraph (3) delayed payment of annual fees made after the time limit as stipulated in Article 115 shall be subject to an additional fee of twenty five percent per annum.
- (2) The delayed payment of annual fees as referred to in paragraph (1) shall be notified in writing within seven days after the stipulated time limit by the Patent Office to the relevant Patent Holder.

- (3) Non-receipt of the notification as referred to in paragraph (2) by the relevant party shall not detract the validity of the provisions of paragraph (1).

CHAPTER X
PATENT ADMINISTRATION

Article 118
Administration.

- (1) The administration of patents as regulated under this law shall be performed by the Patent Office.
- (2) The administration as referred to in paragraph (1) shall be carried out with due observance to the authority of other government agencies as regulated under this law.

Article 119
Patent Information.

The Patent Office shall maintain a patent documentation and information service with the formation of a national patent documentation system and information network capable of furnishing information regarding patented technology to the public, on the widest possible scale .

/Article 120 ---

Article 120
Ministerial Guidance.

In the administration of patents, the Patent Office shall be guided by and responsible to the Minister.

CHAPTER XI
RIGHT TO CLAIM

Article 121
Claim for Ownership.

- (1) If a patent is granted to a person other than the party who by virtue of Articles 11, 12 and 13 is entitled to such patent, then the party entitled to such patent may file a claim at the District Court of Central Jakarta so that the relevant patent including the rights thereto shall be given to him in full or in part or in joint ownership.
- (2) A copy of the judgement of the claim as referred to in paragraph (1) shall be promptly delivered by the Registrar of the District Court of Central Jakarta to the Patent Office for further recordation in the Patent Rolls and announcement in the Patent Official Gazette.

/Article 122 --

Article 122
Indemnification for Infringement

- (1) The Patent Holder or Licence Holder shall be entitled to claim indemnification through the local District Court against any person who has deliberately and without a right, committed any act referred to in Article 17 against his rights.
- (2) A claim for indemnification against any act referred to in Article 97 paragraph (1) letter b shall be received if it is proven that the result of such product has been made by using the invention for which patent has been granted.
- (3) The judgement of the District Court on a claim as referred to in paragraph (1) shall be promptly delivered by the Registrar of the relevant District Court to the Patent Office for further recordation in the Patent Rolls and announcement in the Patent Official Gazette.

Article 123
Injunction

- (1) In order to prevent greater losses of the party whose rights have been infringed, therefore, at any time during examination by the District Court the Judge may order the patent infringer to cease all acts as referred to in Article 17.

(2) If a demand is made for the delivery of the products of the patent infringement or the value of such products, the Judge may order that such delivery may only be made after the court judgement has obtained permanent legal force, and after indemnification has been paid by claimant to the owner of the products who has good faith.

Article 124

Criminal Proceeding.

The right to file a claim, as regulated in this Chapter shall not detract the right of the State to institute criminal proceedings against a patent infringement.

Article 125

Appeals.

- (1) An appeal against the judgement of the District Court may be filed to the High Court and a cassation of the Supreme Court.
- (2) Any appeal or cassation judgement as referred to in paragraph (1) shall be promptly delivered by the Registrar of the District Court to the Patent Office for recordation in the Patent Rolls and announcement in the Patent Official Gazette.

CHAPTER XII
CRIMINAL PROVISIONS

Article 126

Criminal Sentence for Patent Infringement

Any person having deliberately and without right infringed the rights of a Patent Holder by committing any acts referred to in Article 17 shall be sentenced to imprisonment for a maximum period of seven years and a maximum fine of Rp. 100.000,000.00 (one hundred million Rupiah).

Article 127

Criminal Sentence for Simple Patent Infringement.

Any person having deliberately and without a right infringed the rights of a Simple Patent Holder by committing any acts as referred to in Article 17 shall be sentenced to imprisonment for a maximum period of five years and a maximum fine of Rp. 50.000.000.00 (fifty million Rupiah).

Article 128

Criminal Sentence for Disclosure of Secrecy.

Any person having deliberately failed to fulfill the obligations referred to in Article 27 paragraph (3), Article 46 and Article 52 shall be sentenced to imprisonment for a maximum period of five years.

/Article 129 ---

Article 129

Crimes.

Criminal acts as referred to in this Chapter shall mean crimes.

CHAPTER XIII
INVESTIGATION

Article 130

Investigations.

- (1) In addition to Police investigators of the Republic of Indonesia, certain civil servants working in a government department of which the scope of duties and the responsibilities include the development of patents, shall be vested with special authority as investigators as referred to in Law No. 8 of 1981 regarding Criminal Procedural Law to carry out investigation of criminal acts in the field of patents.
- (2) An investigator referred to in paragraph (1) shall be authorized to:
 - (a) examine the truth of a report or information concerning a criminal act in the field of patents;
 - (b) examine any person suspected of committing a criminal act in the field of patents;

CHAPTER XIV
TRANSITIONAL PROVISIONS

Article 131
Transitional.

- (1) Within 1 (one) year as of the effective date of this law, any person having filed a patent registration application pursuant to Government Announcement of 1953 within ten years preceding the effective date of this law, may file a patent application based on the provisions of this law.
- (2) If a patent application which has been registered and fulfills the provisions referred to in paragraph (1) is not renewed within one year as of the effective date of this law, such patent application registration shall be deemed as expired.
- (3) The registration of a patent application based on the Announcement referred to in paragraph (1) which has been filed for more than ten years prior to the effective date of this law shall be declared as null and void.
- (4) The provisions of this Law shall prevail with respect to patent applications as referred to in paragraph (1) and in the event a patent is granted, the validity period thereof shall be calculated from the date of receipt of the patent application pursuant to such Announcement.

CHAPTER XV
OTHER PROVISIONS

Article 132
Function

The organization of a body the function of which shall be to provide considerations regarding strategic policies in patent affairs shall be carried out by the Government in accordance with the needs and development.

CHAPTER XVI
CLOSING PROVISIONS

Article 133
Repeal

All existing regulations concerning patents shall be declared null and void as of the date of enactment of this Law.

/Article 134 ---

- (c) request information and evidence from a person or entity with respect to an incident of criminal act in the field of patents;
 - (d) examine books, records and other documents related with any criminal act in the field of patents;
 - (e) examine certain locations suspected of having evidence of books, records, and other documents and confiscate material and products of infringement which may be used as evidence in the criminal case in the field of patents;
 - (f) request the assistance of experts in the course of investigation of criminal acts in the field of patents.
- (3) An investigator as referred to in paragraph (1) shall give notice of the commencement of an investigation and shall report the result of his investigation to the Public Prosecutor in accordance with the provision of Article 107 of Law No. 8 of 1981 concerning Criminal Procedural Law.

Article 134
Effective Date.

This law shall be effective as of August 1, 1991.
In order for every person to be knowledgeable of this law, it
is hereby ordered that the enactment of this law shall be set
out in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

Date : November 1, 1989

PRESIDENT OF THE REPUBLIC OF INDONESIA

(signed)

S O E H A R T O

Enacted in : Jakarta

Date : On November 1, 1989

MINISTER/STATE SECRETARY OF THE
REPUBLIC OF INDONESIA

(signed)

M O E R D I O N O

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