

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA  
NUMBER 2 YEAR 2005  
REGARDING  
CONSULTANTS OF INTELLECTUAL PROPERTY RIGHTS

WITH THE MERCY OF GOD ALMIGHTY,  
PRESIDENT OF THE REPUBLIC OF INDONESIA,

CONSIDERING : that to implement Article 15 of Law No 31 of 2000 regarding Industrial Designs, Article 13 of Law No 32 of 2000 regarding Lay-out Designs of Integrated Circuit, Article 25 paragraph (4) of Law No 14 of 2001 regarding Patents, Article 7 paragraph (9) of Law No 15 of 2001 regarding Trademarks, Article 37 paragraph (5) of Law No 19 of 2002 regarding Copyrights, and other regulations on intellectual property rights which provide for Consultants of Intellectual Property Rights, a Government Regulation regarding Consultants of Intellectual Property Rights needs to be stipulated;

IN VIEW OF : 1. Article 5 paragraph (2) of the Constitution of Republic of Indonesia of 1945;

2. Law No 30 of 2000 regarding Trade Secret (State Gazette of the Republic of Indonesia No 242 of 2000, Supplementary State Gazette of Republic of Indonesia No 4044);

3. Law No 31 of 2000 regarding Industrial Designs (State Gazette of the Republic of Indonesia No 243 of 2000, Supplementary State Gazette of the Republic of Indonesia No 4045);

4. Law No 32 of 2000 regarding Lay-out Designs of Integrated Circuit (State Gazette of the Republic of Indonesia No 244 of 2000, Supplementary State Gazette of the Republic of Indonesia No 4046);

5. Law No 14 of 2001 regarding Patents (State Gazette of the Republic of Indonesia No 109 of 2001, Supplementary State Gazette of the Republic of Indonesia No 4130);

6. Law No 15 of 2001 regarding Trademarks (State Gazette of the Republic of Indonesia No 110 of 2001, Supplementary State Gazette of the Republic of Indonesia No 4131);

7. Law No 19 of 2002 regarding Copyrights (State Gazette of the Republic of Indonesia No 85 of 2002, Supplementary State Gazette of the Republic of Indonesia No 4220);

HAS DECIDED

TO ENACT A GOVERNMENT REGULATION REGARDING CONSULTANTS  
OF INTELLECTUAL PROPERTY RIGHTS

## CHAPTER I GENERAL PROVISION

### Article 1

In this Government Regulation:

1. A Consultant of Intellectual Property Rights shall mean a person having skills in the field of intellectual property rights and specifically provides services in the filing and processing of applications in the field of intellectual property rights administered by the Directorate General and shall be registered as a Consultant of Intellectual Property Rights at the Directorate General.
2. Minister shall mean the Minister of a Department having duties and responsibilities, which include the supervision in the field intellectual property rights.
3. Directorate General shall mean the Directorate General of Intellectual Property Rights, which is under the Department presided over by the Minister.
4. University shall mean an educational institution, which is appointed by the Directorate General as its partner in conducting the training of Consultants of Intellectual Property Rights.

## CHAPTER II REQUIREMENTS AND FILING OF APPLICATIONS

### Article 2

- (1) An application to be elected as Consultant of Intellectual Property Rights shall be made in writing in Indonesian language and addressed to the Minister via the Directorate General.
- (2) The application as referred to in paragraph (1) shall be made in 6 (six) copies with the following attachments:
  - a. A curriculum vitae;
  - b. A photo-copy of valid identity card;
  - c. 6 (six) copies of latest photographs with the size of 2 x 3 cm, and 7 (seven) copies of photographs with the size of 3 x 4 cm;
  - d. Copies of certified academic certificates;
  - e. A certificate of English test which is equivalent to the International TOEFL with a grade of 400 at the minimum; and
  - f. A letter of acknowledgement stating that the applicant is not a civil servant.
- (3) An application to be elected as Consultant of Intellectual Property Rights shall pay for a fee, which is in accordance with the prevailing laws and regulations.

### Article 3

To be elected as a Consultant of Intellectual Property Rights, an applicant must fulfil the following requirements:

- a. National of the Republic of Indonesia;
- b. Having permanent residence in Indonesia;

- c. Graduated from university;
- d. Having knowledge of the English language;
- e. Not a civil servant;
- f. Having passed the training of Consultant of Intellectual Property Rights.

#### Article 4

- (1) The training as referred to in Article 3 item f shall be conducted by universities, which are appointed by the Directorate General.
- (2) The training as referred to in paragraph (1) shall use the curriculum, which is stipulated by the Directorate General.

### CHAPTER III ELECTION, RIGHTS AND OBLIGATIONS, AND DISMISSAL

#### Part One Election

#### Article 5

An applicant who meets the requirements as referred to in Article 2 and Article 3 shall be elected as Consultant of Intellectual Property Rights with a Decree of the Minister.

#### Article 6

- (1) Before conducting his function, a Consultant of Intellectual Property Rights must take the oath (sworn testimony) according to his belief in front of the Minister.
- (2) The sworn testimony as referred to in paragraph (1) shall say as follows:

“I truly swear

- that I will always have faith in, maintain and apply Pancasila and the Constitution of the Republic of Indonesia of 1945, and other prevailing laws and regulations of the Republic of Indonesia;
- that to become and conduct my duties as a Consultant of Intellectual Property Rights, I will not make any promises to anyone directly or indirectly and without any reasons, which are contrary to the prevailing laws and regulations.
- that in doing my function as Consultant of Intellectual Property Rights, I will always act truthfully based on law and justice;
- that I will behave and do my obligations in accordance with my honour, status and responsibilities as Consultant of Intellectual Property Rights;
- that I will keep the confidentiality of applications which are authorized to me by highly honouring the ethics of Consultants of Intellectual Property Rights.”

#### Article 7

A Consultant of Intellectual Property Rights that has been elected and has taken the oath shall be registered in the List of Consultants of Intellectual Property Rights and announced in the Official Gazette of Intellectual Property Rights, which is published by the Directorate General.

Part Two  
Rights and Obligations

Article 8

- (1) A Consultant of Intellectual Property Rights shall have the right to represent, accompany and/or assist the interests of the user of his services in filing and processing applications in the field of intellectual property rights in the Directorate General.
- (2) The right to represent, to accompany and/or to assist as referred to in paragraph (1) shall be accompanied by a power of attorney.
- (3) A Consultant of Intellectual Property Rights shall be entitled to receive a payment for his services.
- (4) A Consultant of Intellectual Property Rights shall have the following obligations:
  - a. to obey laws and regulations in the field of intellectual property rights and any other laws and regulations;
  - b. to protect the interests of the user of his services by maintaining the confidentiality of information related to applications of intellectual property rights authorized to him.
  - c. to provide services and socialization in the field of intellectual property rights including procedures of filing of applications of intellectual property rights.
- (5) The provision of services and socialization as referred to in paragraph (4) item c shall be free of charge for those needy.
- (6) A Consultant of Intellectual Property Rights shall appoint another Consultant of Intellectual Property Rights to act as a protocol in the event such Consultant is dismissed as referred to in Article 11 and Article 12.
- (7) The protocol as referred to in paragraph (6) shall be obliged to notify the party giving the authority regarding the dismissal so that the party giving the authority assigns a new Consultant.
- (8) Should there, in the future, be changes regarding the requirements as referred to in Article 3 items a, b, and e, the Consultant of Intellectual Property Rights must report such changes to the Directorate General.

Part Three  
Advanced Training and Evaluation

Article 9

In order to enhance the quality of Consultants of Intellectual Property Rights, the Directorate General or the universities appointed by the Directorate General shall organize advanced trainings in the field of intellectual property rights.

Article 10

- (1) The Directorate General shall periodically in every 5 (five) years evaluate the performance of Consultants of Intellectual Property Rights.

- (2) The evaluation as referred to in paragraph (1) shall be conducted based on the following criteria:
- a. Fulfilling the obligations as a Consultant of Intellectual Property Rights Consultant as referred to in Article 8 paragraph (4);
  - b. Having filed at least 10 (ten) applications of intellectual property rights in every year; and
  - c. Having an office with a clear and complete address.

Part Four  
Dismissal

Article 11

A Consultant of Intellectual Property Rights may be dismissed with honour on the following grounds:

- a. Self request;
- b. Not in a good condition physically and mentally so that he cannot perform his function;
- c. Failing to fulfil the criteria as referred to in Article 10 paragraph (2);
- d. Passing away;
- e. Having changed the nationality, no longer domiciling in the territory of the Republic of Indonesia and/or becoming a civil servant as referred to in Article 3 items a, b, and e that has reported according to the provision of Article 8 paragraph (8).

Article 12

- (1) A Consultant of Intellectual Property Rights may be dismissed without honour on the following grounds:
- a. Disobeying the sworn testimony as Consultant of Intellectual Property Rights;
  - b. Having criminal sentence based on a decision of the court which has been legally binding for having conducted criminal action with a criminal sanction of imprisonment for 4 (four) years or more;
  - c. Failing to fulfil the obligations as referred to in Article 8 paragraph (8);
  - d. Having evidently given a false statement regarding the requirements as referred to in Article 3 items a, b, c, d, and e; or
  - e. Passing the training as referred to in Article 3 item f in dishonest ways.
- (2) The dismissal as referred to in paragraph (1) shall be applied by the Directorate General to the Minister.
- (3) A Consultant of Intellectual Property Rights who is dismissed as referred to in paragraph (1) can file objection to the Minister via the Director General of Intellectual Property Rights.
- (4) In the case the objection of dismissal as referred to in paragraph (1) is accepted by the Minister, said Consultant of Intellectual Property Rights can be re-elected and have his good name rehabilitated.

#### Article 13

The procedure of dismissal, filing of objection and rehabilitation as referred to in Article 11 and Article 12 shall be further regulated by the Minister.

#### Article 14

- (1) A Consultant of Intellectual Property Rights who is dismissed by the Minister as referred to in Article 11 and Article 12 shall be deleted from the List of Consultants of Intellectual Property Rights.
- (2) The deletion as referred to in paragraph (1) shall be announced in the Official Gazette of Intellectual Property Rights.
- (3) A Consultant of Intellectual Property Rights who is dismissed without honour as referred to in Article 12 cannot be re-elected as Consultant of Intellectual Property Rights.

### CHAPTER IV TRANSITIONAL PROVISIONS

#### Article 15

- (1) Patent Consultants who have been registered based on the Government Regulation No 33 of regarding Special Registration of Patent Consultants shall re-register as Consultant of Intellectual Property Rights in the Directorate General.
- (2) The re-registration as referred to in paragraph (1) shall be conducted within the period of 6 (six) months at the latest from the date this Government Regulation comes into force, with a payment of fee based on the prevailing laws and regulations.
- (3) In the event during period as referred to in paragraph (2), the re-registration has not been conducted, the Patent Consultant shall be deemed to have resigned as Consultant of Intellectual Property Rights.

### CHAPTER V CLOSING PROVISION

#### Article 16

With the enactment of this Government Regulation, the Government Regulation No 33 of 1991 regarding Special Registration of Patent Consultants (State Gazette No 41 of 1991, Supplementary State Gazette No 3443) shall be no longer valid.

#### Article 17

This Government Regulation shall come into force from the date of its enactment.

In order that every person may know of it, the promulgation of this Government Regulation is ordered by the placement in the Official State Gazette of the Republic of Indonesia.

Enacted in Jakarta on January 4, 2005

PRESIDENT OF THE REPUBLIC OF INDONESIA

Dr. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta on January 4, 2005

MINISTER OF LAW AND HUMAN RIGHTS

Dr. HAMID AWALUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2005 NUMBER 2