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Title: PATENT

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. whereas, patent constitutes an intellectual property that is granted by the state to an inventor based on the result of his/her invention in the field of technology that has a strategic role in supporting the development of the nation and improving public welfare;
- b. whereas, the rapid development of technology in various fields gives rise to the need to increase protection for the inventors and holders of patents;
- c. whereas, such increase in patent protection is important for inventors and holders of patents because it can motivate the inventors to improve their inventions, both in quantity and quality to improve the welfare of the nation and the state thus creating a sound business climate;
- d. whereas, Law Number 14 Year 2001 regarding Patent is no longer in accordance with the development of the law, both nationally and internationally, so that it needs to be replaced;
- e. whereas, based on the considerations of letter a, letter b, letter c, and letter d, it is deemed necessary to stipulate a Law on Patent.

In view of:

Article 5 paragraph (1), Article 20, Article 28C paragraph (1), and Article 33 of the 1945 Constitution of the Republic of Indonesia.

By the Joint Approval of  
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA  
And  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To stipulate: LAW REGARDING PATENT

## CHAPTER I GENERAL PROVISIONS

### Article 1

Referred to herein as:

1. Patent shall be an exclusive right granted by the state to an inventor with regard to their technological invention, to exercise their invention on their own or grant approval to other parties to implement the said invention for a certain period of time.
2. Invention shall be an inventor's idea put into a specific problem-solving activity in the field of technology, in the form of product or process, or the refining and development of product or process.
3. Inventor shall be an individual or a group of people, who jointly implement the idea put into an invention-producing activity.
4. Application shall be an application for a Patent or a simple Patent, which is submitted to the Minister;
5. Applicant shall be the party filing an Application for a Patent.
6. Patent Holder shall be an Inventor as the owner of Patent, the party receiving the right to such Patent from the Patent's owner, or any other parties receiving further the said right to the Patent, which is listed on the Patent general list.
7. Proxy shall be a consultant on Intellectual Property Rights having their permanent domicile or residence within the territory of the Republic of Indonesia.
8. Patent Examiner hereinafter referred to as the Examiner shall be a person appointed as a functional Civil State Apparatus official or an expert appointed by the Minister who has the duties of and authority to examine Applications substantively.
9. Date of Receipt shall be the date of receipt of the Application which has fulfilled the minimum requirements.
10. Priority Rights shall be the Applicant's right to file an Application that originates from a member country of the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization to obtain recognition that the Date of Receipt in the country of origin constitutes the priority date in the destination country that is also a member of one of the two conventions provided that such filing is submitted within the time period stipulated based on the aforementioned international agreements.
11. License shall be a license granted by a Patent Holder, either exclusively or non-exclusively, to a license recipient based on a written agreement to use the Patent which is still protected within a certain period of time and under certain conditions.
12. Patent Appeal Commission shall be an independent commission existing within the Ministry that organizes governmental affairs in the field of law.

13. Person shall be an individual or a legal entity.
14. Royalty shall be reward conferred for the use of the Patent's right.
15. Compensation shall be compensation received by a party that reserves the right to obtain a Patent upon an Invention made in a work relationship or an Invention made by an employee or a worker that uses data and/or facilities available in their workplace, although the agreement does not require him to produce an Invention or the Patent Holder upon the invention made by the Inventor in a service relationship or Patent Holder from the mandatory License Holder or Patent Holder upon patent that is implemented by the Government.
16. Day shall be workday.
17. Minister shall be a Minister organizing governmental affairs in the field of law.

## CHAPTER 2 SCOPE OF PATENT PROTECTION

### Part 1 General Article 2

Patent protection shall cover:

- a. Patents; and
- b. Simple Patents.

### Article 3

- (1) Patent as intended in Article 2 sub-article (a) shall be granted for new Inventions, containing inventive steps and are applicable in industry.
- (2) Simple Patent as intended in Article 2 sub-article (b) shall be granted for every new Invention, development of an existing product or process, and applicable in industry.

### Article 4

Invention shall not cover:

- a. aesthetic creation;
- b. scheme;
- c. Rules and methods for implementing the following activities:
  1. those involving mental activities;
  2. games; and
  3. business;
- d. rules and methods that only contain computer programs;
- e. presentation regarding information; and

- f. discoveries in the form of:
1. new ways of using existing and/or known products; and/or
  2. New forms of existing compounds that does not result in a significant increase in efficacy and there are differences related to the chemical structures that are already known from the compound.

Part 2  
Invention  
Section 1  
Inventions that May be Granted Patents  
Article 5

- (1) Inventions shall be considered new as intended in Article 3 paragraph (1) if on the Date of Receipt, the Invention is not the same as the technology previously disclosed.
- (2) The previously disclosed technology as intended in paragraph (1) shall constitute technology that has been announced in Indonesia or outside Indonesia in an article, oral description or through a display, usage, or by any other methods that might allow an expert to implement such Inventions before:
  - a. The Date of Receipt; or
  - b. Priority date in the event the Application is filed with the Priority Rights.
- (3) The previously disclosed technology as intended in paragraph (1) shall cover other Application documents that have been filed in Indonesia published on or after the Date of Receipt which substantive examination is being conducted, but such Date of Receipt is earlier than the Date of Receipt or priority date of the Application.

Article 6

- (1) The following shall be exempted from the provisions as stipulated in Article 5 paragraph (2), an Invention shall not be considered to have been announced if within a period of 6 (six) months at the maximum before the Date of Receipt, the Invention has:
  - a. been displayed at a formal exhibition or at an exhibition that is acknowledged as official exhibition, conducted in Indonesia or overseas;
  - b. been used in Indonesia or overseas by its Inventor in the context of testing with the purpose of research and development ; and/or
  - c. announced by the Inventor in;
    1. a scientific session in the form of examination and/or examination stage of paper, thesis, dissertation, or other scientific works; and/or
    2. Other scientific forum in the context of discussing the results of research in an educational institution or a research institution.

- (2) Inventions shall not be deemed to have been announced if within 12 months before the Date of Receipt, there is a party that announce them by violating the obligation to maintain the confidentiality of the Invention.

#### Article 7

- (1) Invention shall be deemed to contain inventive steps if the said Invention, in the view of a person who has an expertise in a specific technical field, constitutes a non-obvious matter.
- (2) To determine whether an Invention is non-obvious as intended in paragraph (1), it is necessary to observe the existing expertise at the time of submission of the Application or those existing at the time of submission of the first application in the event that the Application is applied with Priority Rights.

#### Article 8

Invention shall be applicable in industry in the event that the said Invention can be implemented in industry as described in the Application.

#### Section 2

#### Inventions that Cannot Be Granted Patent

#### Article 9

Inventions that cannot be granted Patent shall include:

- a. Processes or products whose announcement, use, or implementation is contrary to laws and regulations, religions, social norms or decency;
- b. Methods of examination, maintenance, medication and/or dissection that are implemented on humans and/or animals;
- c. Theories and methods in the fields of science and mathematics;
- d. Living creatures, except for microorganisms; or
- e. Biological processes that are essential for the production of plants or animals, except for non-biological processes or microbiological processes.

#### Part 3

#### Patent Subject

#### Article 10

- (1) Parties that have the right to obtain a Patent shall be Inventors or Persons that further receive the right of such Inventor.
- (2) If an Invention is made by several persons jointly, the right to the Inventions shall be owned jointly by the Inventors concerned.

#### Article 11

Unless otherwise proven, other parties that are considered as Inventors shall be a person or persons that for the first time is/are stated as Inventor(s) in the Application.

#### Article 12

- (1) The Patent Holder of Invention produced by an Inventor in a working relationship shall constitute the party that provides the work, unless agreed upon otherwise.
- (2) The provision as intended in paragraph (1) shall also be applicable to Inventions that are produced either by employee or worker that uses data and/or facilities that are available at their workplace.
- (3) Inventor as intended in paragraphs (1) and (2) shall have the right to receive compensation based on an agreement that is made between employer and Inventor, with due observance of the economic benefits obtained from said invention.
- (4) Compensation as intended in paragraph (3) can be paid based on:
  - a. a certain amount and paid in lump sum;
  - b. Percentage;
  - c. Lump sum plus prize or bonus; or
  - d. Any other forms agreed upon between the parties.
- (5) If there is no agreement between the parties as to the payment method and the amount of compensation, the parties may file a lawsuit to the Commercial Court.
- (6) The provisions as stipulated in paragraphs (1), (2), and (3) shall not annul the rights of the Inventor for his name to be stated in the Patent certificate.

#### Article 13

- (1) Patent Holder of Invention produced by Inventor in service relationship with a governmental agency shall be the relevant governmental agency and the Inventor, unless stipulated otherwise.
- (2) After the Patent has been commercialized, the Inventor as intended in paragraph (1) shall have the right to receive Compensation over the Patent they produce from non-tax state revenues.
- (3) In the event the governmental agency as the Patent Holder cannot implement the Patent, Inventor based on the approval of the Patent Holder may implement the Patent with a third party.
- (4) With regard to Patent implementation as intended in paragraph (3), other than the governmental agency, the Inventor shall obtain royalties from the third party that gains economic benefits from the commercialization of the said Patent.
- (5) The provisions as intended in paragraphs (1) and (2) shall not eliminate the Inventor's rights for his name to be stated in the Patent certificate.
- (6) Further provisions on Compensation as intended in paragraph (2) shall be stipulated in a regulation of the minister organizing governmental affairs in the field of finance.

#### Part 4 Previous User

#### Article 14

- (1) A party that implements the Invention at the time an Application is filed for the same Invention shall remain having the right to implement his Invention even though the said same Invention later is granted a Patent.
- (2) The party that implements the Invention as intended in paragraph (1) shall be acknowledged as the Previous User.
- (3) The provisions as intended in paragraph (1) shall not be applicable in the event the party that implements the Invention as the Previous User uses the knowledge of the Invention based on description, drawing, example or claim from the Invention that is being applied for a Patent.

#### Article 15

- (1) A party that implements an Invention as intended in Article 14 can only be acknowledged as the previous user if after being given the Patent for the same Invention, such party files an application as the previous user to the Minister.
- (2) Recognition as the previous user shall be granted by the Minister in the form of the previous user statement letter after fulfilling the requirements and paying the fees.
- (3) The rights of the previous user shall end when the Patent of the said same Invention ends.

#### Article 16

- (1) Previous user cannot assign the right of the previous user to another party, due to the license or assignment of right, except due to inheritance.
- (2) Previous user may only use the right for the implementation of the Invention.
- (3) Previous user shall be prohibited from preventing others from implementing the Invention.

#### Article 17

In the event the previous user violates the provisions as intended in Article 16 paragraph (1), the Minister may revoke the previous user statement letter.

#### Article 18

Further provisions regarding the previous user will be stipulated in a Ministerial Regulation.

### Part Five Rights and Obligations of Patent Holder

#### Article 19

- (1) Patent Holder shall have the exclusive right to implement the Patent that is owned and to prohibit other parties without their consent from:

- a. for Patent products: making, using, selling, importing, renting, surrendering, or making available for the sale or rental or surrendering of the patented products;
  - b. for Patent process: using the process of production that is granted Patent to produce other goods or actions as intended in point a.
- (2) Prohibition from using the Patented production process as intended in paragraph (1) sub-paragraph b shall only be applicable for imported products that are solely produced from the use of process that is granted the protection of the Patent.
  - (3) For purposes of education, research, testing, or analysis, the prohibitions as intended in paragraphs (1) and (2) can be excluded provided that it does not jeopardize the fair interest of the Patent Holder and is not commercial.

#### Article 20

- (1) Patent Holder must make a product or use the process in Indonesia.
- (2) Making a product or using the process in Indonesia as intended in paragraph (1) must support transfer of technology, absorption of investment and/or providing of job opportunities.

#### Article 21

Every Patent Holder or License receiver of Patent must pay an annual fee.

### Part Six Term of Patent Protection

#### Article 22

- (1) Patent shall be granted for a period of 20 (twenty) years as of the Date of Receipt.
- (2) The time period as intended in paragraph (1) cannot be extended.
- (3) The dates of start and end of the period of the Patent shall be recorded and announced through electronic media and/or non-electronic media.

#### Article 23

- (1) Simple Patent shall be granted for a period of 10 (ten) years as of the Date of Receipt.
- (2) The time period as intended in paragraph (1) cannot be extended.
- (3) The dates of start and end of the period of the Patent shall be recorded and announced through electronic media and/or non-electronic media.

## CHAPTER III PATENT APPLICATION Part One Application Procedure and Requirements Article 24



- (1) A Patent is granted based on an Application.
- (2) The Application as intended in paragraph (1) shall be filed by the Applicant or his/her Proxy to the Minister, in writing in Indonesian language by paying the fee.
- (3) Every Application shall be filed for one Invention or several Inventions that represent a unity of related Inventions.
- (4) The Application as intended in paragraph (2) can be filed electronically or non-electronically.

#### Article 25

- (1) Application as intended in Article 24 should at least include:
  - a. the date, month and year of application letter;
  - b. the name, complete address and nationality of the Inventor;
  - c. the name, complete address, nationality of the Applicant in the event that the Applicant is not a legal entity;
  - d. the name and complete address of the Applicant in the event that the Applicant is a legal entity;
  - e. the name and complete address of the Proxy in the event that the Application is filed by the Proxy; and
  - f. the name of country and the Date of Receipt of the Application which is filed for the first time in the event that the Application is filed with Priority Rights.
- (2) Application as intended in paragraph (1) must be attached by the following requirements:
  - a. Invention title;
  - b. Invention description;
  - c. Claim or several claims of the Inventions;
  - d. Invention abstract;
  - e. Drawing stated in description that is needed to clarify the Invention, if the Application is attached by a drawing;
  - f. Power of Attorney of the Application if it is filed by a Proxy;
  - g. Statement letter of ownership of the Invention by the Inventor;
  - h. Letter of transfer of ownership rights if the Application is filed by an Applicant who is not the Inventor; and
  - i. Evidence Letter of the storage of microorganisms if the Application is related to microorganisms.

- (3) The description regarding Invention as intended in paragraph (2) sub-paragraph b must show clearly and completely regarding how the Invention can be implemented by an expert in his/her field.
- (4) The claim or several claims over Inventions as intended in paragraph (2) sub-paragraph c must show clearly and consistently of the main purpose of the Invention, and must be supported with a description as intended in paragraph (3).

#### Article 26

- (1) If the Invention relates to and/or originates from genetic resources and/or traditional knowledge, the origin of the genetic source and/or traditional knowledge must be clearly and correctly stated in the description.
- (2) Information regarding genetic resources and/or traditional knowledge as intended in paragraph (1) shall be stipulated by an institution that is acknowledged by the government.
- (3) Distribution of results and/or access to the utilization of genetic resources and/or traditional knowledge as intended in paragraph (1) shall be implemented based on the laws and regulations and international agreements in the field of genetic resources and traditional knowledge.

#### Article 27

In the event that the Application is filed by the Proxy as intended in Article 25 paragraph (1) sub-paragraph e, the address of the Proxy shall constitute the domicile of the Applicant.

#### Article 28

Application that is filed by the Applicant that is not living in or does not have permanent domicile in the territory of the Unified State of the Republic of Indonesia must be filed by its Proxy in Indonesia.

#### Article 29

Further provisions regarding the requirements and procedures for submission of the Application shall be stipulated by a Ministerial Regulation.

### Part Two Application with Priority Rights Article 30

- (1) The Application with the Priority Rights must be filed by no later than 12 (twelve) months as of the priority date.
- (2) In addition to having to fulfill the requirements as intended in Article 25, the Application using the Priority Rights as intended in paragraph (1) must also be completed with priority documents that are validated by the authorized officials in the relevant country.
- (3) Priority documents that have been validated by the authorized officials in the relevant countries as intended in paragraph (2) must be submitted to the Minister by no later than 16 (sixteen) months as of the priority date.

- (4) If the requirements as intended in paragraphs (1), (2) and (3) have not been fulfilled by the Applicant, the Application shall be deemed to be filed without Priority Rights.

#### Article 31

Provisions as intended in Article 24 until Article 28 shall be applicable mutatis mutandis towards Applications using Priority Rights.

#### Article 32

Further provisions regarding Applications that are filed with Priority Rights shall be regulated by a Ministerial Regulation.

### Part Three Applications Based on Patent Cooperation Treaties Article 33

- (1) Application can be filed based on Patent Cooperation Treaties.
- (2) The provisions as intended in Article 24 until Article 28 shall be applicable mutatis mutandis towards the Application based on Patent Cooperation Treaties.
- (3) Further provisions regarding Applications that are filed based on Patent Cooperation Treaties shall be regulated by a Ministerial Regulation.

### Part Four Administrative Examination Article 34

- (1) The Application that has met the requirements shall be given the Receipt of Date and shall be recorded by the Minister.
- (2) The minimum requirements as intended in paragraph (1) shall include:
  - a. Application data as intended in Article 25 paragraph (1);
  - b. Application data as intended in Article 25 paragraph (2) sub-paragraphs a to e; and
  - c. Proof of payment for the Application fee.
- (3) In the event that the descriptions of the Invention as intended in Article 25 paragraph (2) sub-paragraph b is written in foreign language, the description must be completed with an Indonesian translation and must be delivered by no later than 30 (thirty) days as of the Date of Receipt as intended in paragraph (1).
- (4) In the event that the description of the Invention is not completed with an Indonesian translation until the deadline as intended in paragraph (3), the Application shall be deemed to be revoked.

#### Article 35

- (1) In the event that the requirements and completeness of the Application as intended in Article 25 are not complete, the Minister, shall notify in writing to the Applicant to

complete the requirements and completeness of the Application by no later than 3 (three) months as of the date the notification letter was sent by the Minister.

- (2) The time period as intended in paragraph (1) can be extended up to 2 (two) months.
- (3) The extension period as intended in paragraph (2) can be further extended for 1 month by paying a fee after the first extension ends.
- (4) In order to extend the time as intended in paragraphs (2) and (3), the Applicant must submit a written request to the Minister with a reason before the time period of the extension as intended in paragraphs (1) or (2) ends.
- (5) In the event of an emergency the Applicant may submit a written request for an extension of time other than those intended in paragraphs (2) and (3), accompanied by supporting evidence to the Minister.
- (6) The Minister can grant the extension as intended in paragraph (5) no more than 6 months after the end of the extension as intended in paragraph (3).

#### Article 36

If the Applicant does not fulfill the requirements and completeness of the Application in the time period as intended in Article 35 paragraphs (1), (2), (3) and/or (6), the Minister shall notify in writing to the Applicant that the Application is deemed to be withdrawn.

#### Article 37

- (1) If for the same Invention, there are more than one Applications filed by different Applicants on different dates, the Application that is given the earliest Date of Receipt shall be the one to be considered to be granted Patent.
- (2) If several applications as intended in paragraph (1) have the same Date of Receipt, the Minister shall notify in writing to the Applicants to negotiate to decide the Application that shall be granted the Patent.
- (3) Applicants as intended in paragraph (2) must negotiate and convey their decision to the Minister by no later than 6 (six) months after the date when the notification letter was sent by the Minister.
- (4) In the event that a consensus or an agreement was not reached between the Applicants, negotiation cannot take place, or decision was not conveyed to the Minister, the Minister shall refuse several Applications applied by the Applicants with the same Date of Receipt as intended in paragraph (2).
- (5) The Minister shall notify the rejection as intended in paragraph (4) through a written notification to the Applicants.

#### Part Five Amendment and Division of Application Section 1 General Article 38

- (1) Application can be amended or divided based on the initiative of the Applicant and/or the advice of the Minister.

- (2) Amendments or divisions as intended in paragraph (1) can be made before the Application is granted a decision on the Patent approval.

## Section 2 Amendment to Application

### Article 39

- (1) Amendments in Application can be made to :
- a. Application data as intended in Article 25 paragraph (1) sub-paragraphs b, e, and/or f; and/or
  - b. Application data as intended in Article 25 paragraph (2) sub-paragraphs a to e.
- (2) Amendments to the description regarding Invention and/or claim or several claims of Invention as intended in Article 25 paragraph (2) sub-paragraphs b and c, can be done with the provision that said amendments do not expand the scope of the Invention that has been filed in the previous Application.
- (3) In the event that amendments are made by adding the amount of claims from the previous Application to more than 10 (ten) claims, an excess of claims shall be charged a fee.
- (4) If the Applicant does not pay the fee as intended in paragraph (3), excess claims shall be deemed to be withdrawn.

### Article 40

- (1) Other than the amendments to data as intended in Article 39 (1), the Application may also be amended from the Patent to the Simple Patent or vice versa.
- (2) The amendments to the Application as intended in paragraph (1) that has fulfilled the requirements as intended in Article 25 shall be deemed as submitted on the same date as the previous Date of Receipt.

## Section 3 Application Division

### Article 41

- (1) If an Application consists of several Inventions that do not constitute a unity of Inventions as intended in Article 24 paragraph (3), the Applicant may submit a divisional Application.
- (2) Divisional Application as intended in paragraph (1) can be filed separately in one or more Applications provided that the scope of protection that is requested in each application does not extend the scope of protection that was filed in the previous Application.
- (3) Divisional Application as intended in paragraphs (1) and (2) that has fulfilled the requirements as intended in Article 25, shall be deemed as submitted on the same date as the previous Date of Receipt.

- (4) In the event that the Applicant does not submit a Divisional Application as intended in Article 38 paragraph (2), Substantive Examination over the Application shall be conducted to the Inventions that constitute a unity of Inventions.

#### Article 42

Further provisions regarding procedures for amendments and divisions of the Applications shall be regulated in a Ministerial Regulation.

### Part Six Withdrawal of Application

#### Article 43

- (1) The Application may only be withdrawn by the Applicant before the Minister issues a decision to approve or reject the Application.
- (2) Withdrawal of the Application as intended in paragraph (1) shall be filed in writing to the Minister.
- (3) Provisions regarding the procedure for withdrawal of the Application shall be regulated by a Ministerial Regulation.

### Part Seven Unacceptable Application and Confidentiality Obligation

#### Article 44

- (1) The Minister cannot receive application that is filed by an official of the Directorate General of Intellectual Property or persons that due to their job work for and on behalf of the Directorate General of Intellectual Property or their Proxy for up to 1 (one) year as of they stop working for whatever reasons from the Directorate General of Intellectual Property.
- (2) Every obtainment of Patent or rights that are related to the Patent for officials of the Directorate General of Intellectual Property or persons that due to their job work for and on behalf of the Directorate General of Intellectual Property for up to 1 (one) year as of they stop working for whatever reasons from the Directorate General of Intellectual Property, shall be declared invalid unless the ownership of the Patent was obtained through inheritance.

#### Article 45

- (1) All Application documents since the Date of Receipt until the date of announcement of the Application shall be confidential except for the Inventors that do not act as the Applicants.
- (2) Every Person must maintain the confidentiality of all Application documents as intended in paragraph (1).
- (3) The Inventors as intended in paragraph (1) may ask for a copy of all documents of the Application as intended in paragraph (1) charged with fee.

- (4) The Inventor that does not act as the Applicant as intended in paragraph (1) must provide a statement that is completed with sufficient evidence that he/she is the Inventor of the Invention that is being applied for.

CHAPTER IV  
ANNOUNCEMENT AND SUBSTANTIVE EXAMINATION  
Part One  
Publication  
Article 46

- (1) The Minister shall announce the Application that has fulfilled the requirements as intended in Article 25.
- (2) Announcement as intended in paragraph (1) shall be made by no later than 7 (seven) days after 18 (eighteen) months as of:
- a. the Date of Receipt; or
  - b. Priority Date in the event that the Application was filed with Priority Right.
- (3) In certain matters as regulated by the laws and regulations, the announcement as intended in paragraph (2) can be made at the earliest of 6 (six) months as of the Date of Receipt upon the request of the Applicant with the reason and charged with fee.

Article 47

- (1) Announcement shall be made through electronic and/or non-electronic media.
- (2) Date of commencement of the announcement of Application shall be recorded by the Minister.
- (3) Announcement as intended in paragraph (1) must be visible and accessible by all Persons.

Article 48

- (1) Announcement shall be valid for 6 (six) months as of the date of announcement of the Application.
- (2) Announcement shall be made by stating:
- a. Name and nationality of the Inventor;
  - b. Name and complete address of the Applicant and his/her Proxy in the event the Application was filed by a Proxy;
  - c. Invention title;
  - d. Date of Receipt or the Priority Date, number, and the country in which the Application was first filed in the event that the Application is filed with Priority Right;
  - e. Invention abstract;
  - f. Invention classification;

- g. Drawing, if the Application is attached by drawing;
- h. Announcement number; and
- i. Application number.

#### Article 49

- (1) Every Person may submit a written opinion and/or objection to the Minister with the reason thereof over the Application being announced.
- (2) Submission of opinion and/or objection as intended in paragraph (1) must already be received by the Minister during the announcement period.
- (3) In the event that there is an opinion and/or objection as intended in paragraph (1), the Minister shall notify the Applicant of said opinion and/or objection by no later than 7 (seven) days after receiving the submission of the opinion and/or objection.
- (4) The Applicant may submit a written explanation and/or refutation of the opinion and/or objection as intended in paragraph (1) by no later than 30 (thirty) days as of the date of the notification letter as intended in paragraph (3).
- (5) The Minister shall use the opinion and/or objection, explanation and/or refutation as intended in paragraphs (1) and (4) as additional materials for consideration at the phase of substantive examination.

#### Article 50

- (1) If an Invention is related to the interests of state defense and security, the Minister shall determine that announcement of the Application of such Invention shall not be made after consultation with the agency that organizes governmental affairs in the field of state defense and security.
- (2) The Minister shall provide a written notification to the Applicant or his/her Proxy regarding the decision on the Application which is not announced as intended in paragraph (1).
- (3) Application documents not being announced which is consulted with governmental agency as intended in paragraph (1) shall be excluded from the provisions as intended in Article 45 paragraph (1).
- (4) Governmental agency as intended in paragraph (1) must maintain the confidentiality of the Invention and Application documents that were consulted.

### Part Two Substantive Examination

#### Article 51

- (1) Application for substantive examination shall be filed in writing to the Minister charged with fee.
- (2) Application for substantive examination as intended in paragraph (1) shall be submitted by no later than 36 (thirty six) months as of the Date of Receipt.



- (3) If the application for substantive examination is not submitted within the time period as intended in paragraph (2) or the fee has not been paid, the Application shall be deemed withdrawn.
- (4) The Minister shall provide a written notification regarding the Application deemed as withdrawn as intended in paragraph (3) to the Applicant or his/her Proxy.
- (5) If the application for substantive examination as intended in paragraph (1) is submitted before the end of the announcement time period as intended in Article 48 paragraph (1), substantive examination shall be conducted after the end of time period of announcement.
- (6) If the application for substantive examination as intended in paragraph (1) is submitted after the end of the period of announcement as intended in Article 48 paragraph (1), substantive examination shall be conducted after the date of receipt of the application for substantive examination.
- (7) Application for substantive examination for divisional Applications or Applications for amendment to Application from Patent to Simple Patent or vice versa must be submitted at the same time as divisional Application or amendment to Application from Patent to Simple Patent or vice versa.
- (8) If the application for substantive examination is not submitted at the same time as divisional Application or amendment to Application from Patent to Simple Patent as intended in paragraph (7), the divisional Application or amendment to Application from Patent to Simple Patent and vice versa shall be deemed withdrawn.

#### Article 52

- (1) Substantive examination for Applications that are not announced as intended in Article 50, shall be conducted by no later than 6 (six) months as of the date of the Minister decision on not to announce said Application.
- (2) Substantive examination as intended in paragraph (1) shall not be charged with a fee.

#### Article 53

- (1) Substantive examination shall be conducted by Examiner.
- (2) The Minister may ask assistance from an expert and/or use facilities that it is needed from other agencies for the purpose of substantive examination.
- (3) The Expert as intended in paragraph (2) shall be appointed and discharged by the Minister.
- (4) The result of the substantive examination that is conducted by an expert as intended in paragraph (3) shall be deemed equal to an examination conducted by an Examiner.
- (5) Result of substantive examination as intended in paragraph (4) must obtain an approval from the Minister.

- (6) Further regulations regarding the procedures and the requirements for the appointment and discharge of an expert as intended in paragraph (3) shall be regulated by a Ministerial Regulation.

#### Article 54

Substantive examination shall be implemented based on the provisions of Article 3 paragraph (1), Article 4, Article 5, Article 7, Article 8, Article 9, Article 25 paragraphs (3) and (4), Article 26, Article 39 paragraph (2), Article 40 and Article 41.

#### Article 55

- (1) In the event substantive examination is conducted to the Application with the Priority Right, the Minister may request the Applicant and/or Patent office in the country of origin of the Priority Right or in other countries regarding document completeness in the form of:
- a. true copy of the letter that is related to the substantive examination result that was done to the first Patent Application abroad;
  - b. true copy of Patent document that has been granted in relation to the first Patent application abroad;
  - c. true copy of the decision regarding the rejection to the first Patent Application abroad in the event that the Patent application was rejected;
  - d. true copy of the decision of nullification of Patent that has been released abroad in the event that the Patent was nullified; and/or
  - e. other documents that are needed.
- (2) The submission of copies of documents as intended in paragraph (1) can be accompanied by an additional explanation that is separated by the Applicant.
- (3) Documents as intended in paragraph (1) can be used as a basis for the consideration of the Minister in giving a decision to approve or reject Application with Priority Right.

#### Article 56

Further provisions regarding requirements and procedures for substantive examination shall be regulated by a Ministerial Regulation.

### CHAPTER V

#### APPROVAL TO OR REJECTION OF APPLICATION

##### Part One

##### General

##### Article 57

The Minister shall decide to approve or reject Application by no later than 30 (thirty) months as of:

- a. The date of receipt of the application for substantive examination in the event that the application for substantive examination was filed after the end of the time period of announcement; or

- b. The end of the time period for announcement as intended in Article 48 paragraph (1) if the application for substantive examination was filed before the end of the time period of announcement.

## Part Two Approval

### Article 58

- (1) The Minister shall approve the Application if based on the result of substantive examination, the Invention that is being filed has fulfilled the requirements as intended in Article 54.
- (2) In the event that the Application is approved, the Minister shall notify the Applicant or its Proxy in writing that his/her Application shall be granted a Patent.
- (3) By no later than 2 (two) months after the notification letter of the granting of Patent, the Minister, shall issue a Patent certificate.
- (4) The Applicant cannot withdraw the Application or make changes in the description and claims during the time period as intended in paragraph (3).
- (5) Patent that has been granted shall be recorded and announced, except for Patents that are related to state defense and security interests.
- (6) The Minister may give an excerpt or a copy of Patent documents to the party that needs it charged with fee.

### Article 59

- (1) Patent certificate shall constitute evidence of rights to the Patent.
- (2) The rights to the Patent as intended in paragraph (1) shall be determined by its protection scope based on the Invention described in the claim.
- (3) Rights to the Patent as intended in paragraphs (1) and (2) shall constitute intangible movable goods.

### Article 60

Protection of the Patents shall be evidenced with the issuance of Patent certificate that is retroactive from the Date of Receipt.

### Article 61

- (1) The Patent Holder or its Proxy may apply a written application for revision to the Minister if there is a mistake in the data of the Patent certificate and/or its attachments.
- (2) If the mistake in the data of the Patent certificate is the fault of the Applicant, the application for revision of its Patent certificate as intended in paragraph (1) shall be charged with a fee.

- (3) If the mistake in the data of the Patent certificate is not the fault of the Applicant, the application for revision of its Patent certificate as intended in paragraph (1) shall not be charged with a fee.
- (4) Change in data as intended in paragraph (1) in the form of change in name and/or address of the Patent Holder shall be recorded and announced by the Minister.
- (5) Further provisions regarding the requirements and procedures for recording the changes in the data as intended in paragraph (1) shall be regulated by a Ministerial Regulation.

### Part Three Rejection

#### Article 62

- (1) In the event the Examiner reports that the Invention requesting for Patent does not fulfill the requirements as intended in Article 54, the Minister shall provide a written notification to the Applicant or its Proxy to fulfill the said requirements.
- (2) Notification as intended in paragraph (1) shall state:
  - a. requirements that need to be fulfilled; and
  - b. reason and reference that are used in the substantive examination.
- (3) The Applicant must provide an opinion and/or fulfill the requirements as intended in the notification letter by no later than 3 (three) months after the date of the notification letter.
- (4) Time period as intended in paragraph (3) can be extended to an additional maximum time of 2 (two) months.
- (5) Extended time period as intended in paragraph (4) can be extended a maximum of 1 (one) month after the end of said period charged with fee.
- (6) To obtain the time extension as intended in paragraphs (4) and (5), the Applicant must file a written application to the Minister before the time period for the extension as intended in paragraphs (3) and (4) ends.
- (7) In the event of an emergency, the Applicant may apply in writing an extension other than those as intended in paragraphs (4) and (5) accompanied by supporting evidence to the Minister.
- (8) The Minister may grant an extension as intended in paragraph (7) for not more than 6 (six) months after the end of the time period as intended in paragraph (6).
- (9) If the Applicant gives an opinion but does not fulfil the requirements as intended in the written notification within the time period as intended in paragraphs (3), (4), (5) and/or (8), the Minister shall provide a written notification to the Applicant that the Application is rejected by no later than 2 (two) months.
- (10) If the Applicant does not give an opinion as intended in the written notification within the time period as intended in paragraphs (3), (4), (5) and/or (8), the Minister shall

provide a written notification to the Applicant that the Application is deemed withdrawn within the time period by no later than 2 (two) months.

#### Article 63

- (1) In the event that the Application is subject to division, the Minister shall reject:
  - a. divisional Application that is filed exceeding the time limit as intended in Article 38 paragraph (2);
  - b. claim or several claims that expand the scope of the protection in the divisional application as intended in Article 41 paragraph (2);
  - c. Inventions that are not a unity from the previous Application.
- (2) In the event the Application is rejected, the Minister shall provide a written notification of the rejection along with the reason and consideration that constitute the basis of rejection to the Applicant or its Proxy.

### CHAPTER VI PATENT APPEAL COMMISSION AND APPEAL APPLICATION Part One Patent Appeal Commission Article 64

- (1) Patent Appeal Commission shall have the duty to receive, examine and decide upon:
  - a. appeal application against the Application that has been rejected;
  - b. appeal application against the correction over description, claim, and/or drawing after the Application is granted Patent; and
  - c. appeal application against the decision granting Patent
- (2) Patent Appeal Commission shall consist of;
  - a. 1 (one) chairman that also serves as a member;
  - b. 1 (one) vice chairman that also serves as a member; and
  - c. maximum 30 (thirty) members that consist of:
    1. 15 (fifteen) Patent experts; and
    2. 15 (fifteen) Examiners.
- (3) Members of the Patent Appeal Commission as intended in paragraph (2) shall be appointed and discharged by the Minister for a term of office of 3 (three) years and can be reappointed for one subsequent term of office.
- (4) Chairman and Vice Chairman shall be chosen from among and by the members of the Patent Appeal Commission.

#### Article 65

- (1) To examine the appeal application, the Patent Appeal Commission shall form a council whose amount of members is odd a the minimum of 3 (three) people and maximum of 5 (five) people, one of them shall be appointed as the Chairman.
- (2) Council as intended in paragraph (1) shall originate from members of the Patent Appeal Commission which one of the members is an Examiner with the lowest position as the Medium-Level Examiner who does not conduct substantive examination of the Application.
- (3) If the Council consists of more than 3 (three) people, the Examiner as intended in paragraph (1) shall be less in amount than the council members other than the Examiner.

#### Article 66

Further provisions regarding membership, tasks, functions and authority of the Patent Appeal Commission shall be regulated in a Ministerial Regulation.

### Part Two Appeal Application Section 1 General Article 67

- (1) An appeal application may be filed against:
  - a. a rejection to the Application;
  - b. corrections on the description, claims and/or drawing after the Application has been granted a Patent; and/or
  - c. a Patent-granting decision.
- (2) An appeal application shall be filed in writing by the Applicant or its Proxy to the Patent Appeal Commission, with carbon copy to the Minister, charged with fee.

### Section 2 Appeal Application against Application Rejection Article 68

- (1) Appeal application against rejection to Application shall be filed by no later than 3 (three) months after the delivery date of the notification letter of the rejection.
- (2) If the Applicant or his/her Proxy files an appeal after the time period as intended in paragraph (1) has lapsed, the Applicant may not re-file the appeal application.
- (3) Patent Appeal Commission shall examine appeal application against the rejection of Application by no later than 1 month after the date of receipt of the appeal application.
- (4) Appeal application as intended in paragraph (1) must contain full description regarding the objection and reasons for the rejection of the application.
- (5) Reasons as intended in paragraph (4) shall not constitute new reasons or explanations that expand the scope of the Invention.

- (6) The decision of the Patent Appeal Commission shall be made by no later than 9 (nine) months as of the starting date of the examination over the appeal application as intended in paragraph (3).
- (7) In the event the Patent Appeal Commission decides to accept the appeal application against the rejection of the Application, the Minister shall follow it up by issuing Patent certificate.
- (8) In the event the appeal application against the rejection of the Application is accepted as intended in paragraph (7), the Minister shall record and announce it through electronic and/or non-electronic media.

### Section 3

#### Appeal Application against Corrections on Descriptions, Claims, and/or Drawings after the Application is Granted Patent

### Article 69

- (1) Appeal application against corrections of descriptions, claims, and/or drawings after the Application is granted Patent shall be filed within 3 (three) months as of the date of the notification letter of granting of Patent.
- (2) If the Applicant or his/her Proxy files appeal after passing the time period as intended in paragraph (1), the Applicant cannot re-apply the appeal application.
- (3) Patent Appeal Commission shall start examination of the appeal application against descriptions, claims, and/or drawings after the Application has been granted Patent by no later than 1 (one) month as of the receipt of the appeal application.
- (4) Correction as intended in paragraph (1) must be limited to the following matters:
  - a. limitation on the scope of the claim;
  - b. correction of mistake in the translation of the description; and/or
  - c. clarification of unclear or ambiguous description contents.
- (5) Correction as mentioned in paragraph (4) shall not result in the protection scope of the Invention to be broader than the protection scope of Invention that was applied at the first time.
- (6) The Decision of Patent Appeal Commission shall be made by no later than 6 (six) months as of the starting date of the examination of the appeal application as intended in paragraph (3).
- (7) If the Patent Appeal Commission decides to accept the appeal application against the correction of description, claim, and/or drawings after the Application has been granted with Patent, the Minister shall follow it up by changing the certificate's attachment.
- (8) If the appeal application against the correction of description, claim, and/or drawings is accepted as intended in paragraph (7), the Minister shall make a record of it and announce it through electronic and/or non-electronic media.

Section 4  
Appeal Application against Decision to Grant Patent

Article 70

- (1) Appeal application against the decision granting Patent shall be submitted in writing by the interested party or his/her Proxy to the Patent Appeal Commission with its copy conveyed to the Minister charged with fee.
- (2) Appeal application against the decision to grant Patent shall be submitted within the maximum period of 9 (nine) months as of the notification date of granting of Patent.
- (3) If an appeal application against the decision to grant Patent which has been granted to the Patent Holder is submitted after the end of the time period as intended in paragraph (2), the interested party or his/her Proxy can take a legal remedy by submitting a lawsuit to the Commercial Court.
- (4) Patent Appeal Commission shall start to perform examination to the appeal application against the decision granting Patent by no later than 1 (one) month as of the receipt date of the appeal application.
- (5) In the appeal application against the decision granting Patent as intended in paragraph (1), the objection shall be explained in detail, accompanied with its reasons and strong supporting evidence.
- (6) Decision of the Patent Appeal Commission shall be rendered by no later than 9 (nine) months as of the commencement of the examination date of the appeal application as intended in paragraph (4).
- (7) If the Patent Appeal Commission accepts part of the appeal application against the decision granting Patent, the Minister shall follow it up by changing the certificate's attachment.
- (8) If the Patent Appeal Commission accepts all of the appeal application towards the decision granting Patent, the Minister shall revoke the certificate.
- (9) The Minister shall record and announce it through electronic and/or non-electronic media, with regard to the decision of the Patent Appeal Commission as intended in paragraph (7) or paragraph (8).

Article 71

The Patent Appeal Commission shall deliver a notification letter by no later than 14 (fourteen) days from the date of decision of acceptance or rejection to:

- a. appeal application against the rejection of Application;
- b. appeal application against correction on description, claim, and/or drawing after the Patent was granted for the said Application; and
- c. appeal application against the decision to grant Patent.

Part Three  
Legal Remedies



## Article 72

- (1) The Applicant or his/her Proxy may file a lawsuit against the Patent Appeal Commission's rejection to the Commercial Court by no later than 3 (three) months as of the delivery date of the notification letter regarding such rejection.
- (2) Notification of rejection mentioned in paragraph (1) shall consist of rejection of the appeal application for Patent on:
  - a. rejection of the Application;
  - b. correction on description, claim and/or drawing; and
  - c. decision to grant Patent.
- (3) Commercial Court decision as intended in paragraph (1) can only be followed up by appeal to the Supreme Court.

## Article 73

Further provisions regarding procedures for application, examination, and settlement of appeal application for Patent, and appeal application against the granting of Patent shall be regulated with Ministerial Regulation.

# CHAPTER VII

## TRANSFER OF RIGHTS, LICENSE, AND PATENT AS AN OBJECT OF FIDUCIARY GUARANTEE

### Part One

### Transfer of Rights

### Article 74

- (1) Patent rights shall be transferable or may be transferred, either entirely or partially due to:
  - a. inheritance;
  - b. grant;
  - c. testament;
  - d. benefaction (wakaf);
  - e. written agreement; or
  - f. other causes justified by laws and regulations.
- (2) Transfer of Patent rights as intended in paragraph (1), shall be accompanied with the original Patent documents along with other rights related to the Patent.
- (3) All forms of the transfer of Patent rights as intended in paragraph (1) shall be recorded and announced, charged with fee.
- (4) If the transfer of Patent rights is not in accordance with the provisions as stipulated in paragraph (1), paragraph (2) and paragraph (3), all rights and obligations shall remain on the Patent Holder.

- (5) Provisions regarding terms and procedures to register the transfer of Patent rights shall be regulated by a Government Regulation.

#### Article 75

Transfer of rights shall not nullify the Inventor's right to have his/her name and identity indicated in the Patent certificate.

### Part Two License

#### Article 76

- (1) The Patent Holder shall be entitled to give License to other party based on a License agreement, either exclusive or non-exclusive, to implement the actions mentioned in Article 19.
- (2) The License agreement as intended in paragraph (1) may cover the entire or a part of the actions mentioned in Article 19.
- (3) The License agreement as intended in paragraph (2) shall be applicable for the period of the License and applicable in the territory of the Unified State of the Republic of Indonesia.

#### Article 77

Patent Holders as intended in Article 76 shall be entitled to implement the Patent him/herself, except otherwise agreed upon.

#### Article 78

It shall be prohibited for the License agreement to contain provisions which may harm the national interest of Indonesia or create limitation which may hinder the ability of Indonesia to transfer, control and develop technology.

#### Article 79

- (1) The License agreement shall be registered and announced by the Minister, charged with fee.
- (2) If the License agreement is not registered and announced as stipulated in paragraph (1), such License agreement shall not have any legal effects to a third party.
- (3) The Minister shall reject the application of registration of License agreement which contains provisions as intended in Article 78.

#### Article 80

Further provisions regarding registration of the License agreement shall be stipulated with a Ministerial Regulation.

### Part Three Mandatory License Section 1

General  
Article 81

Mandatory License shall be non-exclusive in nature.

Article 82

- (1) Mandatory License shall be a License to implement a Patent which is granted based on a Ministerial Decision, upon request, because:
  - a. The Patent Holder does not fulfill his/her obligation to create product or to use the process in Indonesia, as stipulated in Article 19 paragraph (1), within the period of 36 (thirty-six) months after the Patent is granted;
  - b. The Patent has been implemented by the Patent Holder or the License recipient in the form and in a manner detrimental to the society; or
  - c. The Patent resulting from development of a Patent which was previously granted cannot be implemented without using other party's Patent which is still under protection.
- (2) The mandatory License as intended in paragraph (1) shall be charged with fee.

Section 2  
Application for mandatory License

Article 83

- (1) Application for mandatory License, due to the reasons as intended in Article 82 paragraph (1) sub-paragraph a, may be submitted after 36 (thirty six) months from the date when the Patent was granted.
- (2) Application for mandatory License, due to the reasons as intended in Article 82 paragraph (1) sub-paragraph b and sub-paragraph c, may be submitted at any time after the Patent was granted.
- (3) Application for mandatory License, as intended in Article 82 paragraph (1) sub-paragraph c, may only be granted if the Patent that will be implemented contains renewable elements which are more advanced than the existing Patent.

Article 84

- (1) Mandatory License as intended in Article 82 paragraph (1) shall only be granted by the Minister, if:
  - a. the applicant or his/her proxy can show evidence of his/her ability to implement the said Patent completely by himself/herself and has facilities to implement the relevant Patent immediately;
  - b. the applicant or his/her proxy has attempted to take actions in the maximum period of 12 (twelve) months to obtain License from the Patent Holder on the basis of reasonable terms and conditions, but without success; and

- c. the Minister is of the opinion that the said Patent may be performed in Indonesia within an appropriate economic scale and may be beneficial for the society.
- (2) Evidence as intended in paragraph (1) sub-paragraph a shall be completed with explanation from the competent agency, which is granted upon request from the applicant or his/her Proxy.

#### Article 85

In the event that mandatory License is submitted based on the reasons as intended in Article 82 paragraph (1) sub-paragraph c, then:

- a. the Patent Holder shall be entitled to give License to each other to use the other party's Patent based on reasonable requirements; and
- b. the use of Patent by the License recipient cannot be transferred, unless it is transferred together with other Patent.

#### Article 86

- (1) Examination on the application for mandatory License shall be conducted by an ad-hoc team of experts which is formed by the Minister in accordance with the Patent category subject to the application of mandatory License.
- (2) In conducting the examination as intended in paragraph (1), the team of experts shall summon the Patent Holder to hear his/her opinion.
- (3) The Patent Holder must express his/her opinion within the period of 30 (thirty) days as of the notification date.
- (4) If the Patent Holder does not express his/her opinion within the time period as intended in paragraph (3), the Patent Holder shall be deemed to accept the granting of mandatory License.

#### Section 3

##### Granting, Postponement, or Rejection of Application for mandatory License

#### Article 87

- (1) The Minister shall notify the decision to grant, postpone, or reject the application for mandatory License to:
  - a. the applicant or his/her proxy; and
  - b. the Patent Holder or his/her Proxy.
- (2) Notification as intended in paragraph (1) shall be made by no later than 7 (seven) Days as of the date of the stipulation of the decision to grant, postpone, or reject the application for mandatory License.

#### Article 88

- (1) In the event that the Minister grants the application for mandatory License as intended in Article 87, the Minister shall stipulate a Decision of the Minister granting

the mandatory License to the applicant or his/her Proxy, including the amount of Compensation and the method of payment.

- (2) The stipulation of decision granting the mandatory License as intended in paragraph (1) shall be conducted within the period of 90 (ninety) Days as of the date of the submission of the mandatory License application.
- (3) The period of time as intended in paragraph (2) shall not include the period for postponement, which is a maximum of 12 (twelve) months as of the date of the announcement by the Minister.
- (4) The decision to grant a mandatory License, as intended in paragraph (1), shall contain:
  - a. non-exclusive mandatory License;
  - b. reasons for the granting of mandatory License;
  - c. evidence, including statement or explanation as a basis to grant the mandatory License;
  - d. the period of the mandatory License;
  - e. the amount of Compensation that must be paid by the Recipient of the mandatory License to the Patent Holder, as well as the payment method;
  - f. conditions of the expiration of the mandatory License and matters that may cancel it;
  - g. The scope of mandatory License for the entire or part of the Patent applied for mandatory License; and
  - h. Other matters required to justly preserve the interest of the relevant parties.
- (5) Further provisions regarding the format of decision of the granting of the mandatory License as intended in paragraph (1) shall be stipulated by a Ministerial Regulation.

#### Article 89

The Ministerial Decision regarding the granting of mandatory License as intended in Article 88 paragraph (1) may be challenged by submitting a lawsuit to the Commercial Court.

#### Article 90

- (1) The Minister may postpone or reject the granting of mandatory License if, based on the recommendation from the team of experts and statement from the Patent Holder, the said Patent requires more than 36 (thirty-six) months for its commercial implementation in Indonesia.
- (2) Statement of the Patent Holder as intended in paragraph (1) shall be accompanied with evidence that it is not sufficient to implement his/her Patent commercially in Indonesia within 36 (thirty-six) months.

#### Article 91

- (1) The postponement of the granting of the mandatory License as intended in Article 90 paragraph (1) shall be granted for a maximum period of 12 (twelve) months as of the date of notification on postponement of granting of the mandatory License by the Minister.
- (2) The Minister shall stipulate a decision, granting or rejecting the application for mandatory License by no later than 14 (fourteen) days as of the expiration date of the postponement period.

#### Article 92

- (1) The recipient of the mandatory License must pay Compensation to the Patent Holder.
- (2) Provisions regarding the amount of the Compensation and its payment method as intended in Article (1) shall be regulated in a Ministerial Regulation.

#### Article 93

- (1) The Minister may grant mandatory License to produce a pharmaceutical product with Patent in Indonesia for the purpose of curing a human disease.
- (2) The Minister may give a mandatory License on import of the procurement of pharmaceutical product with Patent in Indonesia, but cannot yet be produced in Indonesia, for the purpose of curing human disease.
- (3) The Minister may grant a mandatory License to export pharmaceutical product with Patent and produced in Indonesia for the purpose of curing human disease, upon request from developing countries or undeveloped countries.

### Section 4 Registration of mandatory License

#### Article 94

- (1) The Minister shall register the granting of mandatory License in the Patent General List and announce it through electronic media and/or non-electronic media.
- (2) Registration and announcement of the granting of mandatory License as intended in paragraph (1) shall be conducted within 30 (thirty) days as of the date of stipulation of the decision to grant mandatory License by the Minister.

#### Article 95

- (1) The Minister shall deliver the copy of the decision on the granting of mandatory License to:
  - a. the applicant of mandatory License or his/her Proxy; and
  - b. the Patent Holder or his/her Proxy.
- (2) The delivery of the copy of such decision as intended in paragraph (1) shall be conducted by no later than 30 (thirty) Days as of the date when the decision on the granting of mandatory License is stipulated, as intended in Article 88 paragraph (1).

#### Article 96

- (1) Every Person can file a request for excerpt of the decision on the granting of mandatory License.
- (2) The request for excerpt of the decision on the granting of mandatory License as intended in paragraph (1) must be submitted in writing, either electronically or non-electronically, to the Directorate General of Intellectual Property, charged with fee.

## Section 5 Implementation of mandatory License

### Article 97

Mandatory License shall be granted to the recipient of the mandatory License for a period not exceeding the period of Patent protection requested for mandatory License.

### Article 98

The implementation of the mandatory License by the recipient of mandatory License shall be deemed as the implementation of Patent applied for mandatory License.

### Article 99

The granting of mandatory License shall not release the Patent Holder from the obligation to pay his/her annual fee in accordance with the laws and regulations.

### Article 100

In the event that mandatory License is related to semi-conductor technology, the recipient of the mandatory License may only use the said mandatory License for:

- a. non-commercial public interest; or
- b. conducting actions which are determined based on court decision or decision of the relevant institution, which stipulates that the implementation of such Patent is an act of monopoly or unfair business competition.

### Article 101

In implementing the mandatory License, the recipient of mandatory License may conduct cooperation with other party, either in Indonesia or abroad.

## Section 6 Transfer of Mandatory License

### Article 102

- (1) Mandatory License may not be transferred, except due to inheritance.
- (2) In the event that mandatory License is transferred due to inheritance, the Ministerial Decision regarding the granting of the mandatory License shall remain applicable for the heir.

- (3) The transferred mandatory License due to inheritance as intended in paragraph (1) must be reported to the Minister to be recorded in the Patent General List and to be announced through electronic media and/or non-electronic media.
- (4) The transferred mandatory License due to inheritance, as intended in paragraph (1), shall remain bound by the terms of its granting and other terms, primarily regarding the time period regulated in the decision on the granting of mandatory License, as intended in Article 86 paragraph (4).
- (5) If the heir does not report the transfer of mandatory License as stipulated in paragraph (3) to the Minister, the Ministerial Decision regarding the granting of the mandatory License shall not be applicable.

## Section 7 Expiration of Mandatory License

### Article 103

- (1) Mandatory license shall expire due to the expiration of the period stipulated in the decision granting the mandatory License by the Minister, or because the decision of the Commercial Court which has a binding legal force revoking the Ministerial Decision regarding the granting of mandatory License.
- (2) Other than the expiry of the mandatory License period and decision of the Commercial Court revoking the granting of mandatory License as intended in paragraph (1), mandatory License shall also expire due to cancellation based on a Ministerial Decision, upon request from the Patent Holder, if:
  - a. the reasons used as the basis to grant the mandatory license no longer exist;
  - b. the recipient of mandatory License does not implement the mandatory License or does not make any appropriate preparatory attempt to immediately implement the mandatory License; or
  - c. the recipient of the mandatory License does not comply with other terms and conditions.
- (3) Request for cancellation of the decision to grant mandatory License by the reason as intended in paragraph (2) sub-paragraph b may be submitted after the recipient of the mandatory License does not implement Patent based on mandatory License within the period of 24 (twenty-four) months as of the date of the decision granting the mandatory License.
- (4) Other terms and conditions which need to be complied by the recipient of mandatory License, as intended in paragraph (2) sub-paragraph c, may be in the form of:
  - a. payment of Compensation; or
  - b. compliance with the scope of License,
 stipulated in the decision granting the mandatory License.

### Article 104



- (1) The Minister shall notify the decision on cancellation of Mandatory License as intended in Article 103 paragraph (2) to:
  - a. the Patent Holder or his/her Proxy; and
  - b. the recipient of mandatory License or his/her Proxy.
- (2) The notification of the Ministerial Decision regarding the cancellation of mandatory License as intended in paragraph (1) shall be conducted within the period of 14 (fourteen) Days as of the date of stipulation of the Ministerial Decision regarding cancelation of mandatory License.

#### Article 105

- (1) The Minister shall record the expiration of the mandatory License as intended in Article 103 paragraph (1) and paragraph (2) in the Patent General List and announce it through media electronic and/or non-media electronic.
- (2) The recording of the expiration of mandatory License as intended in paragraph (!) shall be conducted within the period of 14 (fourteen) Days as of the date of the expiration of mandatory License.

#### Article 106

Expiration of the mandatory License shall result in the recovery of the Patent Holder's rights on the Patent as of the date of recording as intended in Article 105 paragraph (1).

#### Article 107

Further provisions regarding procedures to grant mandatory License shall be stipulated by a Ministerial Regulation.

### Part Four Patent as an Object of Fiduciary Guaranty

#### Article 108

- (1) Patent rights may be used as an object of fiduciary guaranty.
- (2) Provisions regarding terms and procedures on Patent as an object of fiduciary guaranty shall be stipulated by a Government Regulation.

### CHAPTER VIII IMPLEMENTATION OF PATENT BY THE GOVERNMENT

#### Article 109

- (1) The Government may implement Patent in Indonesia by itself, based on the following consideration:
  - a. relating to state defense and security; or
  - b. emergency necessity for public interest.

- (2) Implementation of Patent by the Government as intended in paragraph (1) shall be limited for the purpose of fulfilling domestic demands, and shall be non-commercial in nature.
- (3) Implementation of Patent by the Government as intended in paragraph (1) shall be stipulated by a President Regulation.
- (4) Implementation of Patent by the Government as intended in paragraph (3) shall be conducted for a certain period and may be extended after hearing the consideration from the Minister and relevant ministers or head of agencies responsible in the relevant field.

#### Article 110

Implementation of Patent by the Government as intended in Article 109 paragraph (1) sub-paragraph a, shall cover:

- a. firearms;
- b. ammunition;
- c. military explosives;
- d. interception;
- e. wiretapping;
- f. surveillance;
- g. encoding devices and code-analysis devices; and/or
- h. the nation's other defense and security process and/or equipment.

#### Article 111

Implementation of Patent by the Government as intended in Article 109 paragraph (1) sub-paragraph b shall cover:

- a. pharmaceutical and/or biotechnology product which are expensive and/or are required to overcome disease that may cause a sudden death in a large amount, significant disability, and constitutes Public Health Emergency that Concerns the World (KKMMD);
- b. chemical and/or biotechnology product which are related to agriculture that is required for food security;
- c. animal medicine which is required to overcome pest and/or widely contagious animal disease; and/or
- d. process and/or product to overcome natural disaster and/or environmental disaster.

#### Article 112

- (1) In the event of implementation of Patent by the Government relating to state defense and security as intended in Article 109 paragraph (1) sub-paragraph a and Article 110, the Patent Holder cannot implement his/her exclusive rights as intended in Article 19.
- (2) In the event of implementation of Patent by the Government for an emergency necessity for public interest as intended in Article 109 paragraph (1) sub-paragraph b and Article 111, it shall not reduce the rights of the Patent Holder to implement his/her exclusive rights as intended in Article 19.

#### Article 113

- (1) Patent which interferes with and contrary to the interest of the state defense and security may only be implemented by the Government.
- (2) In the event that the Government does not or not yet intended to implement Patent by itself as intended in paragraph (1), the implementation of Patent may only be conducted by the Patent Holder with approval from the Government.
- (3) Patent Holder in which his/her Patent is implemented by the Government itself as intended in paragraph (1), shall be released from the obligation to pay annual fee.
- (4) Patent Holder as intended in paragraph (2) shall be released from the obligation to pay annual fee until the Patent may be implemented.

#### Article 114

- (1) In the event that the Government intends to implement Patent that is important for the state defense and security or for emergency necessity for public interest as intended in Article 109 paragraph (1), and Patent which interferes with or contrary to the interest of defense and security as intended in Article 113 paragraph (1), the Government shall inform the Patent Holder regarding such matter in writing.
- (2) A copy of Presidential Regulation regarding approval to implement Patent by the Government as intended in Article 109 paragraph (3) shall be delivered by the Minister to the Patent Holder.
- (3) The Implementation of Patent by the Government shall be registered in the Patent General List and announced through electronic media and/or non-electronic media.
- (4) The Government Decision that a Patent shall be implemented by the Government itself, as intended in Article 109 paragraph (1) shall be final and binding.

#### Article 115

- (1) Implementation of Patent by the Government as intended in Article 109 paragraph (1) and Article 113 paragraph (1) shall be conducted by giving reasonable Compensation to the Patent Holder.
- (2) The government shall give reasonable Compensation to the Patent Holder as a compensation for the implementation of Patent by the Government as intended in Article 109 paragraph (1).

#### Article 116

- (1) In the event that the Government cannot implement the Patent as intended in Article 109 paragraph (1) by itself, the Government may appoint a third party to do the implementation.
- (2) The third party as intended in paragraph (1) must fulfill the following requirements:
  - a. owns the facilities and is able to implement the Patent;
  - b. does not transfer such implementation of the Patent to other party; and

- c. has a good production, distribution and monitoring method in accordance with the laws and regulations.
- (3) The payment of Compensation on behalf of the Government as intended in Article 115 shall be made by the appointed third party as intended in paragraph (1).

#### Article 117

- (1) In the event that the Patent Holder disagrees with the amount of Compensation given by the Government as intended in Article 115, the Patent Holder may file a lawsuit to the Commercial Court.
- (2) The lawsuit as intended in paragraph (1) shall be submitted by no later than 90 (ninety) Days as of the delivery date of the copy of Presidential Regulation as intended in Article 109 paragraph (3).
- (3) In the event that Patent Holder does not submit the lawsuit as intended in paragraph (1), the Patent Holder shall be deemed to accept the determined amount of the Compensation.
- (4) The examination process of the lawsuit as intended in paragraph (1) shall not cease the implementation of the Patent by the Government.

#### Article 118

- (1) The Patent Holder shall be released from the obligation to pay annual fee on Patent implemented by the Government, with consideration as intended in Article 109 paragraph (1) sub-paragraph a.
- (2) The Patent Holder shall pay annual fee on the Patent implemented by the Government with consideration as intended in Article 109 paragraph (1) sub-paragraph b.

#### Article 119

The cost for implementation of Patent by the Government as intended in Article 109 paragraph (1) shall be charged to the State Revenue and Expenditure Budget.

#### Article 120

Further provisions regarding the procedures to implement the Patent by the Government shall be regulated by a Presidential Regulation.

### CHAPTER IX SIMPLE PATENT

#### Article 121

All provisions stipulated in this Law shall apply mutatis mutandis to simple Patent, except the provisions of Article 3 paragraph (1), Article 7, and stipulated otherwise in this Chapter.

#### Article 122

- (1) A Simple Patent shall only be granted to one Invention.

- (2) The application for substantive examination on simple Patent can be conducted simultaneously with the submission of such simple Patent Application, or by no later than 6 (six) months as from the date of receipt of the Simple Patent application, charged with fee.
- (3) If the application for substantive examination of the Simple Patent is not implemented within the period of time as intended in paragraph (2), or the fee for that purpose is not paid, the application of Simple Patent shall be deemed withdrawn.

#### Article 123

- (1) The announcement of the Application for a simple Patent shall be made by no later than 7 (seven) Days after 3 (three) months as of the date of receipt of such Application of Simple Patent.
- (2) The announcement as intended in paragraph (1) shall be made for 2 (two) months as of the date of announcement of such Application for Simple Patent.
- (3) The substantive examination on Application for Simple Patent shall be conducted after the period of announcement time as intended in paragraph (2) expires.

#### Article 124

- (1) The Minister shall give the decision to approve or reject the Application for simple Patent by no later than 12 (twelve) months as of the date of receipt of such Application.
- (2) The Simple Patent granted by the Minister shall be registered and announced through electronic media and/or non-electronic media.
- (3) The Minister grants a simple Patent certificate to the Holder of simple Patent as an evidence of rights.

### CHAPTER X PATENT INFORMATION DOCUMENTATION AND SERVICE

#### Article 125

- (1) The Minister shall organize Patent documentation and information service.
- (2) In performing Patent documentation and information service as intended in paragraph (1), the Minister shall establish a nation-wide system for Patent documentation and information network.

### CHAPTER XI FEE

#### Article 126

- (1) The first payment for the annual fee shall be made by no later than 6 (six) months as of the date of issuance of the Patent certificate.
- (2) Payment of annual fee as intended in paragraph (1) shall include Patent and simple Patent, annual fee shall be paid for the first year as of the Date of Receipt until the year Patent is given plus annual fee for the following year.

- (3) Payment of the following annual fee shall be made by no later than 1 (one) month before the same date as the Date of Receipt on the following protection period.
- (4) Exception from paying annual fee as intended in paragraph (2) shall be stipulated by a Government Regulation.

#### Article 127

- (1) Payment of annual fee may be made by the Patent Holder or his/her Proxy.
- (2) In the event that the Patent Holder is not permanently resided or domiciled in the Unified State of the Republic of Indonesia, payment of annual fee shall be made through his/her Proxy in Indonesia.
- (3) The Proxy shall inform the amount of annual fee to the Patent Holder and pay the annual fee as intended in paragraph (2) on behalf of the Patent Holder.

#### Article 128

- (1) In the event that annual fee as intended in paragraph 126 has not been paid until the stipulated time period, Patent shall be declared to be erased.
- (2) Postponement of payment of annual fee may be requested by the Patent Holder by submitting a letter of application to use the grace period mechanism to the Minister.
- (3) The application letter as intended in paragraph (2) shall be submitted by no later than 7 (seven) Days before the due date of the annual fee payment.
- (4) Patent Holder who submits the application letter as intended in paragraph (2) shall made annual fee payment within the grace period by no later than 12 (twelve) months as of the expiry date of the deadline of the Patent annual fee payment.
- (5) Payment of annual fee as intended in paragraph (3) shall be subject to 100% (one hundred percent) additional cost, calculated from the total payment of the annual fee.
- (6) As long as the Patent Holder has not paid the annual fee within the grace period stipulated in paragraph (4):
  - a. The Patent Holder cannot prohibit third party to conduct actions as intended in Article 19 and grant license and transfer the Patent to a third party;
  - b. The third party cannot conduct actions as intended in Article 19; and
  - c. The Patent Holder cannot file a civil or criminal lawsuit.

#### Article 129

- (1) All fees received in accordance with this Law are non-tax state revenues.
- (2) The Minister with the approval from the minister in charge of governmental affairs in financial affairs may use the revenue from the fees as intended in paragraph (1) in accordance with the laws and regulations.

- (3) Further provisions regarding fees as intended in paragraph (1) shall be stipulated in a Government Regulation.

## CHAPTER XII PATENT ANNULMENT

### Article 130

A Patent shall be annulled entirely or partially due to:

- a. an application for annulment from the Patent Holder is granted by the Minister;
- b. a court's decision which annuls the said Patent has a binding legal force;
- c. a decision of Patent annulment is issued by the Patent Appeal Commission; or
- d. the Patent Holder does not fulfill the obligation to pay the annual fee.

### Article 131

- (1) The annulment of the Patent by the reason as intended in Article 130 sub-article a shall be conducted based on written application submitted by the Patent Holder against all or part of the claims to the Minister.
- (2) In case of application for partial annulment of the claims as intended in paragraph (1), part of the claims shall be adjusted by not expanding the scope of such claims.
- (3) The annulment of the Patent as intended in paragraph (1) cannot be done if the recipient of the License does not give a written approval attached in the application for annulment of the Patent.
- (4) The decision regarding annulment of the Patent as intended in paragraph (1) shall be notified in writing by the Minister to:
  - a. the Patent Holder or his/her Proxy; and
  - b. the Recipient of the License or his/her Proxy.
- (5) The decision regarding annulment of the Patent as intended in paragraph (1) shall be registered and announced through electronic media and/or non-electronic media by the Minister.
- (6) The annulment of the Patent as intended in paragraph (1) shall be applicable as of the stipulation of Ministerial Decision regarding Patent annulment.

### Article 132

- (1) The annulment of the Patent based on a court's decision as intended in Article 130 sub-article b shall be done if:
  - a. Patent should have not been granted; according to Article 3, Article 4, or Article 9;
  - b. patent from genetic resources and/or traditional processing does not fulfill the requirements as intended in Article 26;

- c. the said Patent is the same as other Patent that has been granted to other party for the same Invention;
  - d. the granting of mandatory License is unable to prevent the implementation of Patent in a form and manner detrimental to public interest in 2 (two) years as of the date when the mandatory License was granted or as of the date when the First mandatory License was granted for several Mandatory Licenses.
  - e. the Patent Holder violates provisions as intended in Article 20.
- (2) The lawsuit on annulment due to the reasons as intended in paragraph (1) sub-paragraph a and sub-paragraph b shall be submitted by third party to the Patent Holder through Commercial Court.
  - (3) The lawsuit on annulment due to the reasons as intended in paragraph (1) sub-paragraph c may be submitted by the Patent Holder or the recipient of the License to Commercial Court so that the other similar Patent is annulled.
  - (4) The lawsuit on annulment due to the reasons as intended in paragraph (1) sub-paragraph d and sub-paragraph e shall be submitted by public prosecutor or other party representing the national interest against the Patent Holder or recipient of mandatory License to the Commercial Court.

#### Article 133

If the lawsuit on annulment of the Patent as intended in Article 132 only concerns one or several claims or part of the claims, annulment shall only be made on one or several claims or part of the claim on which the annulment was claimed.

#### Article 134

- (1) Patent may be annulled based on the reasons as intended in Article 130 sub-article c, if the Patent Holder does not fulfill the obligation to pay annual fee within the period as intended in Article 126 or Article 128 paragraph (1).
- (2) The Minister shall notify the Patent Holder within 30 (thirty) Days before the said Patent is annulled due to the reasons as intended in paragraph (1).
- (3) If the notification letter as intended in paragraph (2) is not received by the Patent Holder, it shall not reduce the provisions as intended in paragraph (i).

#### Article 135

- (1) In the event that a Patent is declared annulled as intended in Article 130, the Minister shall notify in writing, in electronic or non-electronic form, regarding such annulment to:
  - a. the Patent Holder or his/her Proxy; and
  - b. the recipient of the License or his/her Proxy.
- (2) Patent which is annulled as intended in paragraph (1) shall be recorded and announced.



#### Article 136

The Patent Holder or recipient of the License which is declared annulled shall not be subject to the obligation to pay the annual fee.

#### Article 137

The annulment of the Patent shall release all legal consequences relating to Patent and other matters from such Patent.

#### Article 138

- (1) Unless provided otherwise in the annulment decision of the Commercial Court, Patent shall be annulled entirely or partially as of the date when the decision has obtained a binding legal force.
- (2) In the event of the application for partial annulment of claims, or the Commercial Court annuls some part of the claims over Patent, such claims shall be adjusted without expanding the scope of such claims.

#### Article 139

- (1) The License recipient from the annulled Patent due to the reasons as intended in Article 132 paragraph (1) sub-paragraph c, shall remain entitled to implement License which he/she owns until the expiry of the period of time as intended in the License agreement.
- (2) The license recipient as intended in paragraph (1) shall not make Royalty payment which should still be made to the Holder of annulled Patent.
- (3) In the event that the Patent Holder has received all Royalty from the License recipient, the Patent Holder shall return the amount of Royalty in accordance with the remaining period of time of the use of License to the rightful Patent Holder.

#### Article 140

- (1) The license from the annulled Patent due to the reasons as intended in Article 132 paragraph (1) sub-paragraph c, which is obtained in good faith before the application of lawsuit on the annulment of relevant Patent, shall remain applicable against other Patent.
- (2) The License as intended in paragraph (1) shall remain applicable provided that the recipient of the License continuously pays Royalty to the Patent Holder which is not annulled, in the amount equal to the previous agreement to the Holder of the annulled Patent.

#### Article 141

The annulled Patent may not be revived, except by the decision of Commercial Court.

### CHAPTER XIII DISPUTE RESOLUTION Part One General Article 142

Party who is entitled to obtain Patent as intended in Article 10, Article 11, Article 12 and Article 13 may file a lawsuit to the Commercial Court if the Patent is granted to a party other than who is entitled for such Patent.

#### Article 143

- (1) The Patent Holder or recipient of the License shall be entitled to claim for damages to the Commercial Court against every person who is intentionally and without right conducting actions as intended in Article 19 paragraph (1).
- (2) The Claim for damages filed against the actions as intended in paragraph (1) may only be granted if the product or the process is proven to be made with Invention that has already been granted a Patent.

#### Part Two Lawsuit Procedures

#### Article 144

- (1) A lawsuit shall be registered to Commercial Court within the jurisdiction or domicile of the defendant.
- (2) In the event that one party is domiciled outside Indonesia, the lawsuit shall be registered in Central Jakarta Commercial Court.
- (3) The Head of the Commercial Court shall determine the schedule of the hearing by no later than 14 (fourteen) days as of the date of lawsuit registration.
- (4) Examination proceeding on the lawsuit shall be started by no later than 60 (sixty) days as of the date the lawsuit is registered.
- (5) The Bailiff shall summon the parties by no later than 14 (fourteen) days before the first examination proceeding is held.

#### Article 145

- (1) In examining the lawsuit on the Patented process, the burden of proof shall be on the defendant if:
  - a. the product from such patented process is a new product; or
  - b. such product is suspected to be the result of a Patented process, regardless of the existence of sufficient evidence, the Patent Holder still cannot determine the process used to produce such product.
- (2) In conducting examination to the lawsuit as intended in paragraph (1), the Commercial Court shall be authorized to:
  - a. order the Patent Holder to submit a copy of Patent certificate for such process in advance and preliminary evidence serving as a basis for his/her lawsuit; and
  - b. order the defendant to prove that the product is not produced using a process granted a Patent.

- (3) In conducting the examination on the lawsuit as intended in paragraph (1) and paragraph (2), the judge must maintain the defendant's interest to have protection on the process elaborated in the proceeding.
- (4) In conducting the examination on the lawsuit as intended in paragraph (1) and paragraph (2), the judge, upon a request from the parties, may stipulate that the proceeding is closed to the public.

#### Article 146

- (1) The decision on the lawsuit shall be read out by no later than 180 (one hundred and eighty) days as of the registration date of lawsuit.
- (2) The decision on the lawsuit as intended in paragraph (1) shall be read out in an open hearing for the public.
- (3) The Commercial Court shall deliver the copy of the decision to the parties who are absent by no later than 14 (fourteen) days as of the decision is read out in an open hearing for public.
- (4) The Commercial Court shall deliver the copy of its decision on annulment of Patent, which has a binding legal force, to the Directorate General of Intellectual Property by no later than 14 (fourteen) days as of the date when the decision is read out.
- (5) The Minister shall register and announce the verdict which has a binding legal force after receiving the copy of the court decision from the Commercial Court.
- (6) In the event the copy of the court decision as intended in paragraph (1) is not delivered by the Head of the Commercial Court, the Minister shall not required to register and announce such verdict having a binding legal force.

#### Article 147

The procedures for filing a lawsuit as intended in Chapter XIII of this Law shall apply mutatis mutandis for Article 132 and Article 133.

#### Article 148

The Legal remedy available against the decision of the Commercial Court as intended in Article 146 paragraph (1) shall only through an appeal to the Supreme Court.

### Part Three Appeal to the Supreme Court

#### Article 149

- (1) The Application for Appeal to the Supreme Court, as intended in Article 148, shall be registered with the Commercial Court which adjudicates the said lawsuit by no later than 14 (fourteen) days as of the date when the decision being appealed to the Supreme Court was read out or received.
- (2) The Commercial Court shall give a receipt signed by the registrar on the same date as the receipt of the registration.

#### Article 150

- (1) The Applicant of Appeal to the Supreme Court shall deliver a memory of Appeal to the Supreme Court to the registrar by no later than 14 (fourteen) days from the date of registration of the application for appeal to the Supreme Court as intended in Article 149 paragraph (1).
- (2) The registrar must notify such application of Appeal to the Supreme Court and its memory, as intended in paragraph (1), to the respondent by no later than 2 (two) days from the date when the memory of Appeal to the Supreme Court is received.
- (3) The Respondent may submit a counter memory to the registrar by no later than 14 (fourteen) Days from the date when the respondent receives the memory of Appeal to the Supreme Court as intended in paragraph (2).
- (4) The registrar must deliver the counter memory of Appeal to the Supreme Court to the applicant of Appeal to the Supreme Court by no later than 7 (seven) Days after the counter memory of Appeal to the Supreme Court is received.

#### Article 151

- (1) The registrar shall deliver the brief to the Supreme Court by no later than 7 (seven) days after the expiry of time period as intended in Article 150 paragraph (3).
- (2) The Supreme Court shall determine the first hearing date by no later than 7 (seven) days from when the case file of Appeal to the Supreme Court is received.
- (3) The examination proceeding on the case file shall commence by no later than 60 (sixty) days as of the date when the case file is received.

#### Article 152

- (1) The decision of appeal to the Supreme Court shall be read out by no later than 180 (one hundred and eighty) days as of the date when the case file is received by the Supreme Court.
- (2) The decision of Appeal to the Supreme Court as intended in paragraph (1) shall be read out in an open hearing for the public.
- (3) Registrar of the Supreme Court shall deliver the copy of such decision to the Commercial Court registrar by no later than 7 (Seven) days after the date the decision of Appeal to the Supreme Court is read out.
- (4) The Commercial Court, through bailiff, no later than 7 (Seven) days after the copy of the decision of Appeal to the Supreme Court is received, must deliver such copy to:
  - a. the applicant;
  - b. the respondent; and
  - c. the Minister
- (5) The Minister shall register and announce the verdict with binding legal force after receiving the copy of the decision from Commercial Court.

Part Four  
Alternative Dispute Resolution

Article 153

- (1) Other than dispute resolution as intended in Article 143, the parties may resolve disputes through arbitration or alternative dispute resolution.
- (2) Dispute resolution through arbitration or alternative dispute resolution shall be conducted in accordance with the applicable laws and regulations.

Article 154

In the event of criminal lawsuit against violation to the Patent or simple Patent, the parties shall firstly resolve the dispute through mediation.

CHAPTER XIV  
TEMPORARY COURT RULING

Article 155

Upon a request from the party being harmed due to the implementation of a Patent, the Commercial Court may issue a temporary court decision to:

- a. prevent the entry of goods which is suspected to violate Patent and/or rights related to the Patent;
- b. secure and prevent the loss of evidence by the offender; and/or
- c. stop the violation to prevent bigger loss.

Article 156

Application for a temporary court decision shall be submitted in writing to the Commercial Court within the jurisdiction of the occurrence of the Patent violation with the following requirements:

- a. attaching an evidence of Patent ownership;
- b. attaching an evidence showing the existence of strong preliminary lead that violation to the Patent has occurred;
- c. attaching a clear statement regarding the goods and/or documents that are requested, searched, collected, and secured for the purpose of authentication; and
- d. deliver a guaranty in the form of cash and/or bank guarantee equal with the amount of the value of the goods which will be imposed a temporary decision.

Article 157

- (1) If the application for temporary decision has fulfilled the requirements as intended in Article 156, the Commercial Court registrar shall register the application for temporary decision and shall deliver such application by no later than 1x24 hours to the head of Commercial Court.

- (2) Within 2 (two) days after the receipt date of the application for temporary decision as intended in paragraph (1), the head of Commercial Court shall appoint a judge to examine the application for temporary decision.
- (3) Within 2 (two) days after the appointment date as intended in paragraph (2), the judge shall decide whether to grant or reject such application for temporary decision.
- (4) In the event that the application is granted, the judge shall issue a temporary decision letter.
- (5) Temporary decision letter as intended in paragraph (4) shall be notified to the parties imposed by such temporary decision by no later than 1x24 (one times twenty four) hours.
- (6) In the event that the application for temporary decision is rejected, the judge shall notify such rejection to the applicant of the temporary decision by stating the reasons.

#### Article 158

- (1) In the event that the Commercial Court issues temporary court decision as intended in Article 157 paragraph (4), Commercial Court shall summon the party who is imposed by the temporary decision by no later than 7 (seven) days after the issuance of the temporary decision, to be asked for statement.
- (2) The party imposed by temporary decision may submit a statement and evidence regarding Patent by no later than 7 (seven) days as of the receipt of the summon letter as intended in paragraph (1).
- (3) Within 30 (thirty) days as of the issuance date of the temporary decision letter, a judge of Commercial Court shall decide whether concurring or revoking the temporary decision.
- (4) In the event of concurrence of the temporary decision:
  - a. the paid guaranty money must be returned to the applicant of the temporary decision;
  - b. the applicant may file claim for damages on Patent violation; and/or
  - c. the applicant may report the Patent violation to investigator of the Indonesian Police or civil investigator.
- (5) In the event that the court temporary decision is revoked, the paid guaranty money must be immediately given to the party imposed by the temporary decision as an indemnification of the said temporary decision.

### CHAPTER XV INVESTIGATION

#### Article 159

- (1) In addition to the Indonesian Police Force, certain civil servant investigators at the ministry organizing governmental affairs in the legal field shall be granted special authority as investigators as intended laws and regulations regarding criminal procedural law, to conduct investigation into criminal acts in Patent.

- (2) Civil servant investigators as mentioned in paragraph (1) shall be authorized to:
- a. examine the truth of report or statement regarding criminal acts in Patent;
  - b. examine the Person which is assumed as conducting criminal acts in patent.
  - c. inquire for information and goods as evidence from the Person related to criminal acts in patent;
  - d. examine book, records, and other documents related to criminal acts in patent;
  - e. search and inspect certain places, which are assumed as storing evidences, books, records, and other documents, related to criminal acts in Patent;
  - f. confiscate materials or products from the violation that may be used as evidence in criminal acts in Patent;
  - g. request of the assistance of experts in the implementation of investigation duty of the criminal acts in Patent.
  - h. request of assistance to relevant agencies to conduct arrest, physical confinement, stipulation of list of wanted people, prevention and deterrence of the actors of criminal acts in Patent; and
  - i. stop investigation if there is insufficient evidence for criminal acts in Patent.
- (3) In conducting investigation, civil servant investigators may require assistance from investigators of Indonesian Police Force for the purpose of continuity of the investigation.
- (4) Civil servant investigators shall notify the commencement of the investigation to the public prosecutor, with carbon copy to investigators of Indonesian Police Force.
- (5) The result of such investigation conducted by the civil servant investigators shall be delivered to public prosecutor through investigators of Indonesian Police Force.

## CHAPTER XVI PROHIBITED CONDUCTS

### Article 160

Any person without the approval of the Patent Holder shall be prohibited from:

- a. for Patented product: creating, using, selling, importing, leasing, transferring, and/or providing for sale, lease, or transfer of a Patented product; and/or
- b. for Patented process: using the Patented production process to create goods or other actions as intended in sub-article a.

## CHAPTER XVII CRIMINAL PROVISIONS

### Article 161

Any person, intentionally and without any rights to do so, conducting actions as intended in Article 160 for Patent, shall be subject to a maximum 4 (four) years of imprisonment and/or penalty in an amount not exceeding Rp.1.000.000.000,00 (one billion Rupiah).

#### Article 162

Any Person, intentionally and without any rights to do so, taking actions as intended in Article 160 for simple Patent, shall be subject to a maximum of 2 (two) years of imprisonment and/or penalty in an amount not exceeding Rp.500.000.000,00 (five hundred million Rupiah).

#### Article 163

- (1) Any Person who violates the provisions as intended in Article 161 and/or Article 162, that causes health or environmental impact, shall be subject to a maximum of 7 (seven) years of imprisonment and/or penalty in an amount not exceeding Rp.2.000.000.000,00 (two billion Rupiah).
- (2) Any Person who violates the provisions mentioned in Article 161 and/or Article 162, that causes death, shall be subject to a maximum of 10 (ten) years of imprisonment and/or penalty in an amount not exceeding Rp.3.500.000.000,00 (three billion five hundred million Rupiah).

#### Article 164

Any Person, intentionally and without any rights to do so, disclosing a confidential Application document as intended in Article 45 paragraph (1) shall be subject to a maximum of 2 (two) years of imprisonment.

#### Article 165

Criminal actions as intended in Article 161, Article 162, and Article 164 shall be an offense which requires submission of complaint.

#### Article 166

In the event that violation to the Patent is proven, the judge may order the goods resulting from such violation to be confiscated by the state to be destroyed.

### CHAPTER XVIII MISCELLANEOUS PROVISIONS

#### Article 167

Exempted from the criminal provisions as intended in Chapter XVII and civil lawsuit shall be the following actions:

- a. Import of a pharmaceutical product protected by Patent in Indonesia and such product has been distributed lawfully in a country, provided that such pharmaceutical product is imported in accordance with the laws and regulations; and
- b. Production of a pharmaceutical product protected with Patent in Indonesia within 5 (five) years before the expiry of such Patent protection for the purpose of licensing process and to subsequently distribute, after the expiry of such Patent protection.



#### Article 168

- (1) Intellectual Property Consultant shall be a person with an expertise in Intellectual Property field and specifically provides service to submit application and arrangement for Intellectual Property.
- (2) Intellectual Property Consultant as intended in paragraph (1) shall be appointed and dismissed by the Minister.
- (3) Provisions regarding the requirements and procedures for the appointment and dismissal of Intellectual Property Consultant shall be stipulated in a Ministerial Regulation.

### CHAPTER XIX TRANSITIONAL PROVISIONS

#### Article 169

As this Law comes into effect:

- a. application for Patent which has been submitted and processed but not yet completed, shall be completed in accordance with the laws and regulations applicable prior to the adoption of this Law;
- b. application for simple Patent which has been submitted in accordance with Law Number 6 Year 1989 regarding Patent as amended by Law Number 13 Year 1997 regarding Amendment to Law Number 6 Year 1989 regarding Patent, the period of protection shall be calculated as of the date of granting;
- c. Patent which has been granted in accordance with:
  1. Law Number 6 Year 1989 regarding Patent as amended by Law Number 13 Year 1997 regarding Amendment to Law Number 6 Year 1989 regarding Patent; and
  2. Law Number 14 Year 2001 regarding Patent,

shall remain valid until its expiry date.

### CHAPTER XX CLOSING PROVISIONS

#### Article 170

As this Law comes into effect, all laws and regulations constituting implementing regulations of laws and regulations on Patent before this Law comes into effect, shall remain valid as long as they are not contrary to the provisions of this Law.

#### Article 171

As this Law comes into effect, Law Number 14 Year 2001 (State Gazette of the Republic of Indonesia Year 2001 Number 109, Supplement to State Gazette of the Republic of Indonesia Number 4130), shall be revoked and declared null and void.

## Article 172

Implementing regulation of this Law must be stipulated by no later than 2 (two) years as of the promulgation of this Law.

## Article 173

This law shall come into effect as of date of its promulgation.

For public cognizance, hereby ordering the promulgation of this Law by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta  
on August 26, 2016  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
Signed,  
JOKO WIDODO

Promulgated in: Jakarta  
on August 26, 2016  
THE MINISTER OF LAW AND HUMAN RIGHTS  
OF THE REPUBLIC OF INDONESIA,  
Signed,  
YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER 176

Issued as true copy  
THE MINISTRY OF STATE SECRETARIAT  
OF THE REPUBLIC OF INDONESIA  
Assistant Deputy of Economy,  
Deputy of Law and Legislation,  
Signed and stamped  
Lydia Silvanna Djaman

## ELUCIDATION ON LAW NUMBER 13 YEAR 2016 REGARDING PATENT

### I. GENERAL

For Indonesia, as a country with a large number of population and which is abundant in natural resources, the role of technology is very important to increase the added value and raise competitiveness in processing such resources. The importance of such role is undisputable. However, the said technological development has not reached the intended target, in the sense that technological development has yet to be used to its maximum capacity in all fields and as a result, has not strengthened Indonesia's capability in facing global competition.

Technological development is aimed towards the enhancement of technological mastery and utilization quality to support the transformation of national economy to an economy based on competitive dominance. In order for technological development towards national development to take place both in a consistent and

continuous manner, the national innovation system must be strengthened through the formation of state and private research institutions, the utilization of natural resources, the empowerment of human resources and information technology network system, the encouragement of research, development and application of technology in strategic fields either through the forms of academic publications, technological services, or technological entrepreneurship.

The role of technology has become a primary focus in developed countries to tackle national development problems and raise economic growth. In various developed countries, economic and technological policies continue to be more integrated and parallel in order to increase national competitiveness. As such, one of the policies is directed towards the increase of technological empowerment in the production system in order to increase national economy and award to national technology.

Indonesia is a country with genetic resources and traditional knowledge which are often exploited by both domestic and foreign Inventors to create new Inventions. For such reason, this Law contains rules regarding clear and honest indication of materials used in an Invention if it relates to and/or originates from genetic resources and/or traditional knowledge in the description.

Although with Law Number 14 Year 2001 regarding Patent the implementation of Patent has begun, there are substances that no longer apply given the development of law, both national and international, and have not been regulated in accordance with the standards under the Agreement on Trade-Related Aspects of Intellectual Property Rights, hereinafter referred to as the approval of TRIPs, and must therefore be amended.

The approach to the Patent Law revision:

1. The optimization of the State's presence in providing the best services of the government in the field of Intellectual Property;
2. The siding with the Indonesia's interests without violating International principles;
3. To realize economic independence through the movement of domestic strategic economic sectors by stimulating national Inventions in the technology field to strengthen technology;
4. To build a platform of National Patent by pragmatic legal realism approach.

The urgency for the amendment to the Patent Law is for, among others:

1. The adjustment with the system of Automatic Administration of Intellectual Property as relating to the Patent registration mechanism may be requested electronically.
2. The improvement of Patent utilization provisions by the Government.
3. The exemption from criminal and civil prosecution to Parallel Imports and Bolar Provisions.
4. The prohibition of Inventions constituting the second use and second medical use of expired Patent protection (public domain).
5. The remuneration for National Civil Administrative researchers as investors in the official relationship of the results of their Patent commercialization.
6. The improvement of provisions related to new Inventions and inventive step to publish in educational institutions or research institutions.
7. Patents can be a fiduciary guaranty object.
8. Increasing the authority of the Patent Appeal Commission to examine the request for corrections of descriptions, claims or drawings after the Request has been patented and the annulment of the Patent that has been granted.
9. Patents can be transferred as benefaction (wakaf).
10. The rules regarding expert appointment and dismissal by the Minister as the Examiner.
11. The existence of a grace period in relation to annual payment over Patents.

12. The rules regarding force majeure in the administrative and substantive examination of Application.
13. The rules regarding the export and import relating to mandatory License.
14. The existence of mediation mechanism before a criminal prosecution.
15. The opening of the biggest opportunity for the national industry to utilize Patents whose protection period has expired in an optimal manner and free from legal claim and the obligation to pay royalty.
16. The granting of mandatory licenses as per request from developing countries or least developed countries that need pharmaceutical products with patents given in Indonesia to treat endemic diseases, wherein such pharmaceutical products may be produced in Indonesia, to be exported to such country. Vice versa, the granting of mandatory licenses to import the procurement of pharmaceutical products with patents given in Indonesia that cannot yet be produced in Indonesia to treat endemic diseases.

## II. ARTICLE BY ARTICLE

### Article 1

Self-explanatory.

### Article 2

Self-explanatory.

### Article 3

#### Paragraph (1)

Self-explanatory.

#### Paragraph (2)

A simple patent shall be granted for Inventions that are not only technically distinct, but also have more practical functions/usages compared to the previous Inventions due to the form, configuration, construction, or component that includes equipment, goods, machinery, compositions, formulas, compounds or systems.

A simple patent shall also be granted for Inventions that constitute new processes or methods.

### Article 4

#### Sub-paragraph a

Self-explanatory.

#### Sub-paragraph b

Self-explanatory.

#### Sub-paragraph c

##### Number 1

Self-explanatory.

##### Number 2

Referred to as “games” shall be the rules or methods related to physical human activities to play.

##### Number 3

Referred to as “business” shall be any business method that has no technical character or effect.

Sub-paragraph d

Referred to as “rules and methods regarding computer program” shall be computer programs that only contain programs with no character, technical effect and problem solution, however if such computer program has characters (instructions) with technical effects and functions to produce tangible or intangible problem solution it shall constitute Inventions that may be given patents.

Examples of Inventions that may be given patents:

Algorithms are effective methods expressed as a limited series of instructions previously defined to calculate a function. Starting from an initial condition and input (possibly empty), the instructions explain a computation which, when executed and processed through several limited condition orders with good definition, result in an “output” and stop at the final condition. The transition from one condition to the next condition does not need to be determinative; several algorithms, known as randomized algorithms, use random bits as inputs.

The encryption of information is done through coding and decoding to randomize so that the information cannot be deciphered by other parties.

Sub-paragraph e

Self-explanatory.

Sub-paragraph f

Number 1

Referred to as “products that exist and/or are known” shall include equipment, goods, machinery, compositions, formulas, methods, usages, compounds or systems, both that are still protected by Patents or have already become public domain.

Number 2

Referred to as “significant” shall be generally used in the pharmaceutical field, namely the structural difference of the concerned chemical compounds in penicillin, ampicillin and amoxicillin antibiotics. The difference between a cluster of H (hydrogen) in ampicillin and a cluster of OH (hydroxyl) in amoxicillin can eradicate microbes with the wide spectrum of anti-microbes and high stability compared to ampicillin, that it may be said that amoxicillin has significant efficacy increase compared to ampicillin.

Article 5

Paragraph (1)

Referred to as “not the same” shall not only be different, but also seen on whether the Invention has the same or different technical features compared to the features of previous Inventions.

The technological term stated previously shall be the state of the art or prior art, which encompasses literature of Patents and non-literature of Patents.

Paragraph (2)

In this Law, the rules regarding oral description or demonstration or other methods shall not only be applied in Indonesia, but also to acts conducted overseas, with the condition that a written proof must nonetheless be delivered.

Priority rights towards Application shall apply if it fulfills the administrative and substantive requirements. For the substantive requirements, the elements claimed in the Application must be stated in prioritized documents.

Paragraph (3)

Referred to as “substantive examination,” in this article and the following articles except articles regulating simple patents, shall be examination of Inventions that have been stated in an Application as an effort to evaluate the fulfillment of requirements: novelty, innovativeness, and applicability in the industry, and to fulfill the requirements of Invention unity, shall be stated clearly, and is not included in the category of Inventions that may not be given Patents. This provision shall be intended to solve any problem that may arise as a result of the same Invention being submitted by another Applicant within different periods (conflicting application).

An Application shall have priority date if it is submitted with priority rights.

Article 6

Paragraph (1)

Sub-paragraph a

Referred to as “official exhibition” shall be any exhibition organized by the Government.

Referred to as “exhibition that is acknowledged as official” shall be any exhibition organized by the society but is nonetheless recognized or has obtained government approval.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Paragraph (2)

Self-explanatory.

Article 7

Paragraph (1)

Referred to as “non-obvious,” for example, shall be an Application of Patent for toothbrushes which heads are removable and can be replaced with razor heads, thus having another function to shave. This Invention is not obvious even for experts in its field.

Paragraph (2)

Referred to as “the first application in the event that the Application is applied with Priority Rights” shall be the Application that was

submitted for the first time in another country that is a member of the Paris Convention for the Protection of Industrial Property or the World Trade Organization. The priority rights of an Application shall apply when administrative and substantive requirements are fulfilled. For substantive requirements, the elements claimed in the Application must be stated in the prioritized documents.

#### Article 8

Inventions in the form of products that may be applied in industries must be made repeatedly (mass) with the same quality, whereas if the Invention is a process then such process must be operational and useful in practice.

#### Article 9

##### Sub-article a

Self-explanatory.

##### Sub-article b

Referred to as “methods of examination” shall be diagnosis methods.

Referred to as “methods of maintenance” shall be medical care methods.

In the case of a check-up, maintenance, treatment, and operation which uses medical equipment, this provision shall only be applicable for the Invention of the method, whereas the medical equipment including tools, materials, or drugs, are not included in this provision.

##### Sub-article c

Self-explanatory.

##### Sub-article d

Living organisms shall include humans, animals, or plants, whereas microorganisms shall be living organisms which are very small in size, not visible with naked eye, and can only be seen with the help of microscopes, for example amoebas, yeast, virus and bacteria.

##### Sub-article e

Referred to as “biological processes that are essential for the production of plants or animals” shall be the processes of grafting that are conventional or natural, such as the techniques of grafting, budding, or natural pollination.

Referred to as “non-biological processes or microbiological processes producing plants or animals” shall be the processes of producing plants or animals that are typically transgenic/genetically modified and involve chemical process, physics, the use of microorganisms, or other genetically modified forms.

#### Article 10

##### Paragraph (1)

Referred to as “persons that further receive Inventor rights,” for example, shall be a child of a Patent Holder through inheritance.

##### Paragraph (2)

Self-explanatory.

#### Article 11

Self-explanatory.

#### Article 12

##### Paragraph (1)

Self-explanatory.

##### Paragraph (2)

Self-explanatory.

##### Paragraph (3)

Self-explanatory.

##### Paragraph (4)

Self-explanatory.

##### Paragraph (5)

Self-explanatory.

##### Paragraph (6)

It is basically common to indicate the name of the Inventor on the certificate. It is known as a moral right.

#### Article 13

##### Paragraph (1)

Referred to as "Inventor in service relationship" shall be the National Civil Apparatuses (NCA).

Referred to as "government institution" is a central government institution and regional government institution.

##### Paragraph (2)

Self-explanatory.

##### Paragraph (3)

Self-explanatory.

##### Paragraph (4)

Self-explanatory.

##### Paragraph (5)

Self-explanatory.

##### Paragraph (6)

Self-explanatory

#### Article 14

##### Paragraph (1)

This provision shall be intended to give protection to the previous user who has good faith, but does not submit an Application.

##### Paragraph (2)

Self-explanatory.



Paragraph (3)

Such Invention must be truly a result of an activity conducted in good faith, by the first user of such Invention.

Article 15

Self-explanatory.

Article 16

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

The previous user shall not constitute the owner of the exclusive rights.

Article 17

Self-explanatory.

Article 18

Self-explanatory.

Article 19

Paragraph (1)

Referred to as “exclusive rights” shall be rights solely given to the Patent Holder for a certain period of time to either commercially use by himself/herself or give further rights of such Patent to others. As such, others shall be prohibited from using such Patent without approval from the Patent Holder.

Referred to as “products” shall cover equipment, machinery, compositions, formulas, products by process, systems, and others. Examples include stationery, erasers, drug compositions, and ink.

Referred to as “process” shall cover processes, methods or uses. For example: the process of making ink, and the process of making tissue.

Referred to as “party” shall be an individual, several individuals collectively or a legal entity according to each respective context.

Paragraph (2)

In the case of a product imported to Indonesia, and the process to create such product is protected by a Patent, the holder of the patented process shall have the right to take legal action to the product imported if such product was made in Indonesia using a patented process.

Paragraph (3)

This provision shall be intended to provide an opportunity for a party that truly needs to use an Invention solely for the purpose of research and education.

Referred to as “for educational purposes, research, testing, or analysis” shall also cover activities for the purpose of bioequivalence tests or other tests.

Referred to as not harming the general interest of the Holder of the Patent shall be so that the implementation or the use of such Invention is not for the purpose of exploitation for commercial interests that would harm or even compete with the Holder of the Patent.

#### Article 20

Self-explanatory.

#### Article 21

Referred to as annual fee shall be the fee that must be paid by the Patent Holder regularly each year. This term is also known in several countries as maintenance fee.

#### Article 22

##### Paragraph (1)

Self-explanatory.

##### Paragraph (2)

Self-explanatory.

##### Paragraph (3)

Referred to as “recorded” shall be recorded in the Patent General List. Referred to as “electronic media” shall be the media that use electronic or electric mechanical energy to access its contents, such as internet sites.

Referred to as “non-electronic media” shall be publications in the official Patent announcement that are published regularly by the Minister, publications in specific media that can be easily visible by the public, among others periodic publication published by the Directorate General of Intellectual Property and/or bulletin boards in the Ministry office.

#### Article 23

##### Paragraph (1)

In general, products or tools that are protected, obtained within a relatively short period, in a simple manner, with a relatively small fee, and also in a simple manner technologically within the protective period of 10 (ten) years shall be regarded as sufficient to obtain acceptable economic benefits.

##### Paragraph (2)

Self-explanatory.

##### Paragraph (3)

Self-explanatory.

#### Article 24

##### Paragraph (1)

Self-explanatory.

##### Paragraph (2)

The Application for Patent submitted by micro-, small- and medium-scale businesses, education institutions and government institutions may be registered through Clinics of Intellectual Property or Intellectual Property Centers.

Paragraph (3)

Referred to as “a unity of Inventions” shall constitute several Inventions that are new and still have relations with tight inventive steps, such as an Invention in the form of new writing tools with new ink. In such example it is clear that the ink is a unity of the Invention to be used in the writing tools, constituting a new Invention in that such writing tool and ink may be submitted in one Application.

Paragraph (4)

Electronic Application shall be done through the Industrial Property Automation System.

Article 25

Paragraph (1)

Self-explanatory.

Paragraph (2)

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

A claim shall be part of the Application that illustrates the essence of the Invention applying for legal protection, which must be elaborated clearly and supported by a description.

Sub-paragraph d

An abstract shall be a summary of the description that illustrates the essence of the Invention.

Sub-paragraph e

Referred to as “drawings” shall be technical drawings.

Sub-paragraph f

Self-explanatory.

Sub-paragraph g

Self-explanatory.

Sub-paragraph h

Self-explanatory.

Sub-paragraph i

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 26

Paragraph (1)

The rationale behind the indication of the genetic resources and/or traditional knowledge in the description shall be so that the genetic resources and/or traditional knowledge would not be claimed by another country and in the context of supporting the Access Benefit Sharing.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Referred to as “international agreement” shall be any ratified international agreement.

Article 27

Self-explanatory.

Article 28

The purpose of this provision shall be to help the process of submitting an Application by an Inventor or those who reserve the rights over an Invention, domiciled outside the territory of the Republic of Indonesia due to other factors, including those relating to language and fulfillment of requirements.

Article 29

Self-explanatory.

Article 30

Paragraph (1)

Self-explanatory.

Paragraph (2)

Referred to as “prioritized documents” shall be Application documents that are first submitted in a country that is a member of the Paris Convention or the World Trade Organization that are used to claim priority date over the Application to the target country, which is also a member of the said two agreements, and have been approved by an authorized official in the office where the Application for Patent was first submitted. The authorized party who approves a copy of the first Patent application is an official in the Patent office in the country where the Application for Patent was first submitted. If the Application is submitted through the Patent Cooperation Treaty (PCT), the authorized party would be an official from the World Intellectual Property Organization (WIPO), a United Nations body with the duty of administering international agreements regarding intellectual property.

Paragraph (3)

Self-explanatory.

Paragraph (4)  
Self-explanatory.

Article 31  
Self-explanatory.

Article 32  
Self-explanatory.

Article 33

Paragraph (1)  
“Traktat kerjasama Paten” shall be a translation of the Patent Cooperation Treaty (PCT). This provision shall be intended to provide facility and acceleration for a Patent Applicant in Indonesia when applying for a Patent in other countries (which are also members of the Patent Cooperation Treaty (PCT), and likewise for a foreign Applicant originated from fellow state members to the PCT to easily and quickly submit Applications to Indonesia. Indonesia ratified the PCT through Presidential Decree Number 16 Year 1997.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Matters that will be stipulated in the Ministerial Regulation shall include:

- a. Additional administrative requirements that must be fulfilled by the Applicant, such as: the use of possible foreign languages, the appointment of a Patent office that will act as an international search authority and international preliminary examination authority by the Applicant, et cetera;
- b. The duty of the Directorate General to be the receiving or designated office of this system, et cetera.

Article 34

Paragraph (1)  
This provision shall be intended to facilitate the Applicant in obtaining the Date of Receipt that is highly important for the status of the Application as it uses a first to file system. In addition, this provision shall be intended to provide certainty as regards the Date of Receipt (filing date).  
This matter shall also be intended to improve service and facility for the public by observing and tailoring with minimal requirements of the Date of Receipt for Applications submitted through the Patent Cooperation Treaty.  
For Invention with an Application and having a Date of Receipt, the Applicant may already produce the relevant Invention but such Invention would not have legal protection until the Application is granted a Patent.

Paragraph (2)  
Self-explanatory.

Paragraph (3)

Referred to as “description” shall be a written explanation of the way to implement an Invention in a manner that will be understood by an expert in the Invention field.

Paragraph (4)

Self-explanatory.

Article 35

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

The fee that may be imposed shall be in the form of a fine due to the Applicant's delay in fulfilling the requirements.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Referred to as “emergency situation” shall be a force majeure, such as the event of war, revolution, riot, strike, natural disaster or any other emergency situation that results in the Applicant's failure to fulfill the application requirements.

Paragraph (6)

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Self-explanatory.

Article 38

Self-explanatory.

Article 39

Paragraph (1)

Self-explanatory.

Paragraph (2)

Referred to as “expanding the scope of the Invention” shall be adding the substance/subject, new information, or reducing the technical characteristics of the Invention, whether in the description, drawing, or claim, that may result in an expansion of the Invention's scope.

Paragraph (3)

Self-explanatory.

Paragraph (4)  
Self-explanatory.

Article 40  
Self-explanatory.

Article 41  
Paragraph (1)  
Referred to as “Invention that does not constitute a unity” shall be any Invention or Inventions other than the accepted Invention.  
For example:  
If an Invention contains 15 claims consisting of:  
1. Invention A, which claims 1 to 5 constitute one Invention;  
2. Invention B, which claims 6 to 10 do not form a unity with Invention A;  
3. Invention C, which claims 11 to 15 do not form a unity with Invention A and Invention B.  
Of the three Inventions mentioned above, the rejected ones would be Invention B and Invention C.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Article 42  
Self-explanatory.

Article 43  
Self-explanatory.

Article 44  
Self-explanatory.

Article 45

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Referred to as “sufficient evidence” shall be evidence that can convince the Minister that such Person is an inventor of an Invention, for example: evidence of an agreement between the Applicant and the Person claiming to be the Inventor.

Paragraph (4)

This provision shall be intended to protect the Inventor from any possible matter detrimental to him.

#### Article 46

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
This provision shall be made to provide an opportunity if an Applicant, due to his/her interests, wishes to have the Application announced earlier.  
Referred to as “specific matter” shall include, among others, fulfilling the provisions of the research credit number as an Inventor or as a requirement to apply for a tender.

#### Article 47

Paragraph (1)  
Referred to as “electronic media” shall be media that uses electronic or electric mechanical energy to access its contents, such as internet sites.  
Referred to as “non-electronic media” shall be publications in the official Patent announcement that are published regularly by the Minister, publications in specific media that can be easily visible by the public, among others periodic publication published by the Directorate General of Intellectual Property and/or bulletin boards in the Ministry office.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

#### Article 48

Paragraph (1)  
During such period of time, an announcement shall be made continuously.

Paragraph (2)  
Sub-paragraph a  
Self-explanatory.  
Sub-paragraph b  
Self-explanatory.  
Sub-paragraph c  
Self-explanatory.



Sub-paragraph d  
Self-explanatory.

Sub-paragraph e  
Self-explanatory.

Sub-paragraph f  
The classification of an Invention shall be conducted in order to group Inventions in Applications in accordance with the relevant field of technology. Therefore, the search activities of a similar Invention (when looking for documents of comparison) that is needed for the substance examination of an Applicant can be done in an easier and faster manner. Although Indonesia has not yet ratified the International Patent Classification, in practice Indonesia has already utilized the International Patent Classification in a similar way as various other countries.

Sub-paragraph g  
Self-explanatory.

Sub-paragraph h  
Self-explanatory.

Sub-paragraph i  
Self-explanatory.

#### Article 49

Paragraph (1)  
Referred to as “opinion” shall cover information provided by any Person with no accompanying request. The information may take the form of written evidence or through demonstration or any other way done in Indonesia and/or overseas.  
Referred to as “objection” shall be information provided by any Person accompanied by a request to not give a Patent or Simple Patent to the announced Invention.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Paragraph (5)  
Self-explanatory.

#### Article 50

Paragraph (1)

Referred to as “inventions related to the interest of the state defense and security” shall include among others Inventions in the field of core defense system, weaponry, ammunition, military explosives, interception, wiretapping, surveillance, and/or encoding.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Article 51  
Self-explanatory.

Article 52  
Self-explanatory.

Article 53  
Self-explanatory.

Article 54  
Self-explanatory.

Article 55

Paragraph (1)

Sub-paragraph a  
Self-explanatory.

Sub-paragraph b  
The document under this provision shall be needed to facilitate the evaluation that the Invention filed for a Patent application is in fact a new Invention and truly contains innovative steps and is applicable in the industry.

Sub-paragraph c  
Self-explanatory.

Sub-paragraph d  
Self-explanatory.

Sub-paragraph e  
Referred to as “other documents that are needed” shall include documents of comparison, search reports, correspondence of examination results done in countries where the Priority Rights originated from or in countries where evaluations were previously conducted.

Paragraph (2)  
Referred to as additional explanation in this paragraph may be in the form of an annotation that there is an amendment made by the

Applicant to the Patent application documents based on a search or an initial examination report and such addition is for the purpose of completing information that is possibly necessary in the examination.

Paragraph (3)  
Self-explanatory.

Article 56  
Self-explanatory.

Article 57  
The decision making shall be by no later than 30 (thirty) months as there needs to be several communications with the Applicant during the examination.

Article 58  
Self-explanatory.

Article 59  
Self-explanatory.

Article 60  
Self-explanatory.

Article 61

Paragraph (1)  
The attachment to the Patent certificate shall constitute an integral part of the Patent certificate.  
Referred to as data in this Article shall be the data in the certificate and attachments to the certificate.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Paragraph (5)  
Self-explanatory.

Article 62

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Paragraph (5)  
The fee charged shall constitute a fine due to the Applicant's delay in providing a response and/or fulfilling the provisions as indicated in the notification letter.

Paragraph (6)  
Self-explanatory.

Paragraph (7)  
Referred to as "emergency situation" shall be a force majeure, such as the event of wars, revolutions, riots, strikes, natural disasters or any other similar emergency situation that causes the Applicant to have not provided any response and/or fulfilled the provisions as indicated in the notification letter on the substantive examination results.

Paragraph (8)  
Self-explanatory.

Paragraph (9)  
Self-explanatory.

Paragraph (10)  
Self-explanatory.

Article 63  
Self-explanatory.

Article 64  
Self-explanatory.

Article 65

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
This provision shall be intended to protect the independence of the examination results by the Council examining the request of appeal.

Paragraph (3)  
If the Council consists of 3 (three) persons, it must consist of 1 (one) Examiner and 2 (two) experts.  
If the Council consists of 5 (five) persons, it must consist of 2 (two) Examiners and 3 (three) experts.

Article 66  
Self-explanatory.

Article 67  
Self-explanatory.

Article 68

Self-explanatory.

Article 69

Self-explanatory.

Article 70

Self-explanatory.

Article 71

Self-explanatory.

Article 72

Self-explanatory.

Article 73

Self-explanatory.

Article 74

Paragraph (1)

As an exclusive right, Patents may be transferred by its Inventor or by the party holding the right over such Invention to another individual or legal entity.

Referred to as “transferable or transferred” shall be limited to economic rights, whereas moral rights shall remain with the Inventor. The transfer of rights over Patents must be done through an authentic notarial deed.

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

Self-explanatory.

Sub-paragraph e

Self-explanatory.

Sub-paragraph f

Referred to as “other cause justified by law and regulations” for example shall be the ownership of a Patent due to the dissolution of a legal entity previously constituting a Patent Holder.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)  
Self-explanatory.

Paragraph (5)  
Self-explanatory.

Article 75  
This right shall be referred to as moral right.

Article 76

Paragraph (1)  
Unlike the transfer of Patents which ownership is also transferred, Licenses through an agreement essentially shall be a transfer only to obtain economic benefits from the Patents for a certain period of time with certain requirements.  
Referred to as “an exclusive License agreement” shall be an agreement that is only given to one License receiver, and/or in a certain area.  
Referred to as “a non-exclusive License agreement” shall be an agreement that may be given to several License receivers and/or in several areas.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Article 77  
Self-explanatory.

Article 78  
Referred to as “national interest” shall be any case or act with importance in ideology, politics, economy, social and culture, defense and security, energy, technology and other importance to achieve Indonesia’s national goal as contained in the 1945 Constitution of the Republic of Indonesia.

Article 79  
Self-explanatory.

Article 80  
Self-explanatory.

Article 81  
Referred to as “non-exclusive in nature” shall refer to Licenses that may be given to one License recipient to exploit a licensed Patent, without prohibition of giving the same License to another party.

Article 82

Paragraph (1)  
  
Sub-paragraph a  
Self-explanatory.

Sub-paragraph b  
Self-explanatory.

Sub-paragraph c  
This condition typically takes place during the implementation of Patent that was the result of improvement or development of a previously patented Invention. Therefore, the implementation of such new Patent means implementing a part of or an entire Invention that is protected by a Patent owned by another party. If a previous Patent Holder gives the License to the next Patent Holder, which may enable the implementation of such Patent, then it is regarded that there is no violation of Patent. However, if a License for such reason is not given, this Law should provide a solution.  
This provision shall be intended for Patents given at a later time to be implemented without violating a previous patent through the granting of mandatory licenses by the Minister.

Paragraph (2)  
Self-explanatory.

Article 83  
Self-explanatory.

Article 84

Paragraph (1)

Sub-paragraph a  
Self-explanatory.

Sub-paragraph b  
Self-explanatory.

Sub-paragraph c  
Referred to as “appropriate economic scale” shall be that a produced Patent can be sold with a reasonable price by the public while still taking into account the rights of the Patent Holder.

Paragraph (2)  
Referred to as “competent agency” shall be an agency with competence in line with the field of the Patent requesting for mandatory licenses.

Article 85

Sub-article a  
Referred to as “giving license to each other” shall be when the Patent Holder for Invention A gives a license to a License Receiver with a patent of Invention A+1, and the License Receiver gives a license to the Patent Holder of Invention A to use the Patent of Invention A+1.

Sub-article b

Self-explanatory.

Article 86

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
This summon shall be intended to hear the opinion of the Patent Holder, including the reason(s) why the Patent Holder did not give a license to the Applicant of the mandatory license.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Article 87

Self-explanatory.

Article 88

Self-explanatory.

Article 89

Self-explanatory.

Article 90

Self-explanatory.

Article 91

Self-explanatory.

Article 92

Paragraph (1)  
Referred to as “compensation” may be in the form of money or any other forms as agreed upon by the parties.

Paragraph (2)  
Self-explanatory.

Article 93

Paragraph (1)  
Referred to as “pharmaceutical products” among others shall include the materials or tools for diagnosing diseases.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Article 94



Self-explanatory.

Article 95

Self-explanatory.

Article 96

Self-explanatory.

Article 97

Self-explanatory.

Article 98

Self-explanatory.

Article 99

Self-explanatory.

Article 100

Sub-article a

Self-explanatory.

Sub-article b

Referred to as “relevant institutions” shall be institutions formed and operating to supervise business competition as stipulated under the laws and regulations.

Article 101

Self-explanatory.

Article 102

Self-explanatory.

Article 103

Self-explanatory.

Article 104

Self-explanatory.

Article 105

Self-explanatory.

Article 106

Self-explanatory.

Article 107

Self-explanatory.

Article 108

Self-explanatory.

Article 109

Paragraph (1)

Sub-paragraph a

Examples of Inventions that relate to the Nation's defense and security shall include explosive materials, weapons, and ammunitions.

Sub-paragraph b

Referred to as "emergency necessity for the public interest" shall include, among others, drugs still patented in Indonesia that are needed to treat endemic diseases in the medical field, pesticides necessary to overcome national harvest failure due to pests in the agriculture field, and a process and/or product to overcome natural disasters and/or environmental disasters.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Referred to as "the relevant minister or heads of agencies responsible in the relevant field" shall be a minister or head of an agency whose duty and authority relate to the field of patents implemented by the Government. For example pharmaceutical field, the relevant minister shall be the minister whose duty and authority is in the medical sector.

Article 110

Sub-article a

Self-explanatory.

Sub-article b

Self-explanatory.

Sub-article c

Self-explanatory.

Sub-article d

Referred to as "interception" shall be deflecting, modifying, and/or obstructing the transmission of electronic information and/or electronic documents that are not public in nature either using communication cables or wireless network, such as electromagnetic emission or radio frequency waves.

Sub-article e

Referred to as "wiretapping" shall be Patents related to wiretapping tools or the process of creating wiretapping tools used to listen and record transmissions of electronic information and/or electronic documents that are not public in nature, either using communication cables or wireless network, such as electromagnetic emission or radio frequency waves.

Sub-article f

Referred to as "surveillance" shall be the act of collecting information, data, or images on activities and resources from the counterparty or

regarding meteorology, hydrography and/or geography characteristics of a certain area, either through visual observation or any other sensing method.

Sub-article g

Referred to as “encoding devices” shall be devices used to change, randomize, and/or hide information into an illegible or indecipherable format.

Referred to as “code-analysis devices” shall be devices used to obtain the meaning of coded information by employing any concepts, theories, art or techniques in a systematic, methodological and consistent manner.

Sub-article h

Self-explanatory.

Article 111

Self-explanatory.

Article 112

Self-explanatory.

Article 113

Self-explanatory.

Article 114

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Referred to as final shall be that a Government Decision to implement a Patent cannot be subject to civil, criminal, state administrative, or any other legal remedies.

Referred to as “binding” shall be that a Government Decision regarding the implementation of a Patent by the Government applies to every party involved.

Article 115

Paragraph (1)

Referred to as “reasonable Compensation” shall be the balance between the economic benefit that may be obtained by the Patent Holder and the state economic capacity to pay.

Paragraph (2)

Self-explanatory.

Article 116

Self-explanatory.

Article 117

Self-explanatory.

Article 118

Paragraph (1)

A Patent Holder cannot execute his/her exclusive rights for them to be exempted from paying annual Patent fee to the Government.

Paragraph (2)

The implementation of Patents by the Government shall be without prejudice to the exclusive rights of the Patent Holder so that the Patent Holder shall still be required to pay annual fee.

Article 119

Self-explanatory.

Article 120

Self-explanatory.

Article 121

Self-explanatory.

Article 122

Paragraph (1)

Referred to as “an Invention” shall be a simple Patent that is submitted for one independent product claim or one independent process claim, but may contain several sub-claims.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 123

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 124

Self-explanatory.

Article 125

Paragraph (1)

Referred to as “documentations” shall be compilations of archives containing the history of a Patent from its Application to the final decision of the granting of the Patent, the rejection to the Application, or the withdrawal of the Application in the forms of electronic and/or non-electronic documents.

Paragraph (2)

The formation of a nation-wide documentation system and network of Patent information shall be to provide information as wide as possible to the public regarding technology relevant to Patents for them to utilize it for technological development.

Article 126

Paragraph (1)

The date of Patent certificate shall be the date of the granting of the patent.

An example of the annual fee calculation:

The Application was applied on April 1, 2010 and was granted a Patent on January 5, 2013. The obligation of the Patent Holder to pay the first annual fee must be fulfilled by no later than July 4, 2013.

Paragraph (2)

An example of the amount of payment to be made for the first time shall be as follows:

	Period	Amount (rupiah)
	(1 April 2010 - 31 March 2011)	A
	(1 April 2011 - 31 March 2012)	B
	(1 April 2012 - 31 March 2013)	C
	(1 April 2013 - 31 March 2014)	D
	(1 April 2014 - 31 March 2015)	E
	(1 April 2015 - 31 March 2016)	F

The date of January 5, 2013 falls on Year III period April 1, 2012 - March 31, 2013. The first method of payment is: the annual payment for the first year from the Date of Receipt to the year of the granting of the Patent, added with the annual payment for the following one year. Thus the first payment of the annual Patent fee is: A+B+C+D that must be paid by no later than by July 4, 2013.

Paragraph (3)

The second annual payment (payment for Year V) is made at least 1 (one) month before the same date of the Date of Receipt in the following period of protection. In the example above, the second annual payment (E) is made on March 2, 2014.

Paragraph (4)

Self-explanatory.

Article 127

Paragraph (1)

For Holders of Patents domiciled in the Republic of Indonesia, the annual payment may be made by the Patent Holder or a Proxy, in this case an Intellectual Property Consultant.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Article 128  
Self-explanatory.

Article 129  
Self-explanatory.

Article 130  
Self-explanatory.

Article 131  
Self-explanatory.

Article 132

Paragraph (1)  
Sub-paragraph a  
Self-explanatory.

Sub-paragraph b  
Self-explanatory.

Sub-paragraph c  
Self-explanatory.

Sub-paragraph d  
Referred to as “unable to prevent the implementation of Patent in a form and manner detrimental to public interest” shall be that while mandatory Licenses has be granted, such granting is not be followed with its implementation, or that there is an implementation albeit ineffective so that the products highly needed by the public are not provided and that the purpose of the granting of the mandatory Licenses to begin with are not fulfilled, such as the granting of mandatory Licenses to produce drugs but the production is subsequently done ineffectively, leading to a minimum production and nonetheless high drug price.

Sub-paragraph e  
Self-explanatory.

Paragraph (2)  
Referred to as “third party” shall be any party with interests over Patents which annulment is disputed and must be proved in the Commercial Court.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Referred to as “other party representing national interest” shall be any individual that makes a claim solely for public interest and/or that of the Republic of Indonesia.

Article 133  
Self-explanatory.

Article 134  
Self-explanatory.

Article 135  
Self-explanatory.

Article 136  
Self-explanatory.

Article 137  
The exclusive rights of a Patent Holder shall be annulled following the decision of the Commercial Court with binding legal force to remove Patent owned by a Patent Holder.  
If a Patent has been licensed by a Patent Holder to another party, the license Receiver shall not be required to pay royalty to the Patent Holder whose Patent has been annulled.

Article 138

Paragraph (1)  
Self-explanatory.

Paragraph (2)  
A Patent Holder whose claim has been annulled based on their own request or the court's decision has binding legal force still must submit an application to the Minister to adjust some of the claims that have not been annulled.  
The adjustment of the claims shall be made by tracing back the claim number of the Patent that is not annulled. Such tracing shall not result in the expansion of the scope of the claim.

Article 139

Paragraph (1)  
The receiver of the License of an annulled Patent may basically still exercise their rights. The License simply becomes a License over another Patent that has not been annulled.

Paragraph (2)  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Article 140  
Self-explanatory.

Article 141  
Self-explanatory.

Article 142  
Self-explanatory.

Article 143  
Self-explanatory.

Article 144

Paragraph (1)  
Self-explanatory

Paragraph (2)  
Self-explanatory

Paragraph (3)  
Referred to as “days” shall be calendar days.

Paragraph (4)  
Referred to as “days” shall be calendar days.

Paragraph (5)  
Referred to as “days” shall be calendar days.

Article 145

Paragraph (1)  
Reverse authentication shall be implemented given the difficulty of handling disputes regarding patented processes.

Sub-paragraph a  
The definition of patented process or a Patent for a process shall basically refer to the same term, namely process patent.

Sub-paragraph b  
Self-explanatory.

Paragraph (2)  
To maintain the balance of reasonable interests of either party, the judge shall retain the authority to order the Patent Holder to first provide a copy of the Patent Certificate for the relevant process as well as initial evidence to support such claim. Additionally, the judge shall also consider the interests of the defendant to have protection over the confidentiality of the process they have elaborated, in case authentication must be conducted in court.

Paragraph (3)  
Self-explanatory.

Paragraph (4)



The confidentiality protection shall be very important given the nature of processes that can be easily manipulated or improved by anyone with general knowledge in a certain field of engineering or technology. Therefore, if requested by the parties, the judge may have the trial be closed from the public.

#### Article 146

##### Paragraph (1)

Referred to as “days” shall be calendar days.

##### Paragraph (2)

Self-explanatory

##### Paragraph (3)

Referred to as “days” shall be calendar days.

##### Paragraph (4)

Referred to as “days” shall be calendar days.

##### Paragraph (5)

Self-explanatory

##### Paragraph (6)

Self-explanatory

#### Article 147

Self-explanatory.

#### Article 148

Self-explanatory.

#### Article 149

##### Paragraph (1)

Referred to as “days” shall be calendar days.

##### Paragraph (2)

Self-explanatory

#### Article 150

##### Paragraph (1)

Referred to as “days” shall be calendar days.

##### Paragraph (2)

Self-explanatory

##### Paragraph (3)

Referred to as “days” shall be calendar days.

##### Paragraph (4)

Referred to as “days” shall be calendar days.

#### Article 151

Paragraph (1)

Referred to as “case file/brief of appeal to the Supreme Court” under this Article shall be the request for appeal to the Supreme Court, memory of appeal to the Supreme Court, and/or contra memory of appeal to the Supreme Court as well as other documents.

Referred to as “days” shall be calendar days.

Paragraph (2)

Referred to as “days” shall be calendar days.

Paragraph (3)

Referred to as “days” shall be calendar days.

Article 152

Paragraph (1)

Referred to as “days” shall be calendar days.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Referred to as “days” shall be calendar days.

Paragraph (4)

Referred to as “days” shall be calendar days.

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

While the Minister may not be a party in such claim, exclusively in case of claims to annul a Patent, the copy of the court decision having binding legal force must remain conveyed by the Commercial Court to the Minister.

Paragraph (5)

Self-explanatory.

Article 153

Paragraph (1)

Referred to as “alternative dispute resolution” shall include negotiation, mediation, conciliation and any other way chosen by the parties.

Paragraph (2)

Self-explanatory.

Article 154

Self-explanatory.

Article 155

Self-explanatory.

Article 156

Self-explanatory.

Article 157

Paragraph (1)

Self-explanatory

Paragraph (2)

Referred to as “days” shall be calendar days.

Paragraph (3)

Referred to as “days” shall be calendar days.

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Paragraph (6)

Self-explanatory

Article 158

Paragraph (1)

Referred to as “days” shall be calendar days.

Paragraph (2)

Referred to as “days” shall be calendar days.

Paragraph (3)

Referred to as “days” shall be calendar days.

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Article 159

Paragraph (1)

Referred to as “certain civil servant investigators at the ministry performing government affairs in the legal field” shall be civil servant investigator in the field of Intellectual Property.

Paragraph (2)

Sub-paragraph a

Self-explanatory.

Sub-paragraph b  
Self-explanatory.

Sub-paragraph c  
Self-explanatory.

Sub-paragraph d  
Self-explanatory.

Sub-paragraph e  
Self-explanatory.

Sub-paragraph f  
Confiscating materials used to create products that result from a violation that may be used as evidence of a criminal act in the field of Patent. With the confiscation by the Investigator, such material cannot be used by the Defendant to create products that result from criminal acts in the Patent field.  
The confiscation of products resulting from criminal acts that may be made evidence in a criminal suit in the Patent field shall not include confiscating the manufacturing machine provided that the Defendant can prove that the machine can be used to create other products that do not constitute a criminal act in the Patent field.

Sub-paragraph g  
Self-explanatory.

Sub-paragraph h  
The Civil Servant Investigator shall have the right to conduct arrest, detention, the determination of a wanted list, the prevention and the prohibition of criminal acts in the Patent field by requesting the assistance of the police force including Interpol, the immigration, the detention house, and any other related agency.

Sub-paragraph i  
Self-explanatory.

Paragraph (3)  
Self-explanatory.

Paragraph (4)  
Self-explanatory.

Paragraph (5)  
Self-explanatory.

Article 160  
Self-explanatory.

Article 161  
Self-explanatory.

Article 162  
Self-explanatory.

Article 163  
Self-explanatory.

Article 164  
Self-explanatory.

Article 165  
Self-explanatory.

Article 166  
Self-explanatory.

Article 167  
The acts of parallel import and bolar provision shall be exempted from criminal provisions and civil lawsuit so that there is no uncertainty for any party that is going to do such acts.

Sub-article a  
The exemption of the import of pharmaceutical products as intended in sub-article a of this Article shall be to ensure the existence of a reasonable price and to fulfill fairness in pharmaceutical products that are very needed for human health. This provision can be used if the price of one product in Indonesia is significantly more expensive compared to the price officially present in international market.

Sub-article b  
The exemption as intended in point b of this Article shall be to ensure the existence of pharmaceutical products from other parties after the expiry of a Patent protection. Therefore, a reasonable price of pharmaceutical products may still be sought.  
Referred to as "licensing process" in this point shall be the process to arrange the distribution and production permits of a pharmaceutical product in the relevant agency.

Article 168  
Self-explanatory.

Article 169  
Self-explanatory.

Article 170  
Self-explanatory.

Article 171  
Self-explanatory.

Article 172  
Self-explanatory.

Article 173  
Self-explanatory.

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NOTE

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