



# INTRODUCTION OF NATIONAL POLICY CONCERNING PROMOTION OF INNOVATION AND INTELLECTUAL PROPERTY IN INDONESIA

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# Conventional Intellectual Property in the Indonesian Legal System

Law Number 7 Year 1994 about the Ratification of WTO-TRIPS Agreement 1994

- President's Decree Number 15 Year 1997 about the Amendment of President's Decree Number 24 Year 1979 concerning the Ratification for Paris Convention 1883 on the Protection of Industrial Property Rights, as amended
- President's Decree Number 18 Year 1997 about the Ratification of Berne Convention 1886 for the Protection of Literary and Artistic Works
- President's Decree Number 74 Year 2004 about the Ratification of WIPO Performances and Phonograms Treaty 1996
- President's Regulation Number 78 Year 2007 about the Ratification of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage 2003

# Intellectual Property Laws in the Indonesian Legal System

- Law Number 28 Year 2014 about Copyright
- Law Number 13 Year 2016 about Patent
- Law Number 20 Year 2016 about Trademarks and Geographical Indications
  
- Law Number 29 Year 2000 about Plant Variety Protection
- Law Number 30 Year 2000 about Trade Secret
- Law Number 31 Year 2000 about Industrial Design
- Law Number 32 Year 2000 about Integrated Circuit Layout

# Intellectual Property and Innovation-Related Laws in the Indonesian Legal System

- Law Number 18 Year 2002 about the National System of Research, Development and Implementation of Science and Technology
- Law Number 3 Year 2014 about Industry
- Government Regulation Number 20 Year 2005 about Technology Transfer associated with Intellectual Property and the Results of Research and Development (R&D) by Higher Education and Institutes of Research and Development (R&D)

# Intellectual Property and Innovation-Related Institutions in the Indonesian Legal System

- Presidential Decree Number 47 Year 1991 about the establishment of the Agency for Assessment and Application of Technology (*Badan Pengkajian dan Penerapan Teknologi/BPPT*)
- Presidential Decree Number 1 Year 1994 about the establishment of the National Research Council (*Dewan Riset Nasional/DRN*)
- Presidential Decree Number 1 Year 1986 about the establishment of the Indonesian Institute of Sciences (*Lembaga Ilmu Pengetahuan Indonesia/LIPI*)
- Presidential Decree Number 6 Year 2015 about the Creative Economy Agency as the transformation of Presidential Instruction Number 6 Year 2009 about the Development of Creative Economy (*Badan Ekonomi Kreatif/Bekraf*)

# Indonesian Legal System on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions

Indonesian legal system on genetic resources, traditional knowledge and traditional cultural expressions outside the conventional Intellectual Property system:

- Law Number 5 Year 1994 about the ratification of the United Nations Convention on Biological Diversity
- Law Number 21 Year 2004 about the ratification of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity
- Law Number 11 Year 2013 about the ratification of the Nagoya Protocol in Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from Their Utilization to the Convention on Biological Diversity

# Indonesian Legal System on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions

Indonesian legal system on genetic resources, traditional knowledge and traditional cultural expressions outside the conventional Intellectual Property system:

- Law Number 32 Year 2009 about the Protection and Mangement of the Environment
- Law Number 4 Year 2006 about the ratification of the International Treaty on Genetic Resources for Foods and Agriculture

# Copyright Law

28 Year 2014

- More Articles devoted to related rights;
- Includes Articles about a Collective Management Organization;
- A new form of upper body for collecting, handling and distributing royalties, especially for song and music industries, i.e. the afore-mentioned 'National Collective Management Organization';
- The possibility of copyrights to be used as collateral to obtain credit from banks;
- Limitation of the duration of 'sale as is' or 'outright sale' of a copyrighted work: after 25 years the copyright of a work is deemed to revert to the author;

- The change of the nature of delicts or crimes from 'normal crime' (a normal offence) into 'crime by complaint' or 'crime by accusation' (a complaint offence);
- Alternative dispute resolution procedures (by mediation or arbitration) to be first conducted, prior to court proceedings;
- Stronger criminal penalties;
- The inclusion of communal intellectual property, especially traditional cultural expressions, as receiving their own new 'sui generis' protection

- More details about the scope of patent protection;
- Shorter substantive examination procedures and administrative procedures;
- Disclosure of inventions in academic forums no longer promptly considered to signify loss of novelty;
- When the certificate is granted, protection of patent is deemed to revert retroactively to the date the complete administrative requirements have been accepted by the Directorate General of Intellectual Property;
- Compulsory disclosure of origins for inventions which are based on genetic resources and/or traditional knowledge;
- More Articles devoted to simple patent; simple patent to be used to protect technological know-how;
- Moral rights for the inventor

# Patent Law

13 Year 2016

- More articles devoted to geographical indications
- Indication of source is regulated differently from geographical indication as it is no longer a type of unregistered geographical indication, but a declaratory and independent one, not directly associated with natural factor/s, by labelling certain product with its true geographical and/or producers' origin;
- Faster way to conduct examination;
- Availability of online registration system.

## Law on Trademarks & Geographical Indications

20 Year 2016

# Challenges

1. Transforming national dependency from natural resources to human resources, and most importantly, to intellectual and cultural resources
2. IP mainstreaming in supra-structure, middle-structure and infra structure
3. Systemic coordination among IP-related ministries and other institutions
4. IP focal points for 'bottom-up':
  - regulation system
  - business incubator system
  - **effective enforcement system**

# Challenges

5. IP commercialization strategies in educational and research institutions;
6. IP commodifications strategy for small and medium industries, including empowerment of small and medium industries to become IP-friendly and IP-oriented industries;
7. Valuation system of IP systems (copyrights, patents and trademarks) for business sectors;

# Challenges

8. IP for strategic cultural resources and community-based products;
9. Comprehensive databases for IP registrations, including for the establishment of a defensive protection for genetic resources, traditional knowledge, traditional cultural expressions and intangible cultural heritage of mankind;
10. Affirmative IP programs for people with physical and mental disabilities and indigenous and local communities;
11. Environmental friendly IP products;

# Challenges

12. Empowering creative critical mass;
13. Creative programs in formal and informal education;
14. Alternative education systems to enhance critical and creative thinking;
15. Reforming public domain for public creativity;
16. Start-up management programs in provincial and local areas;
17. Integrated national mapping on IP friendly areas to become:
  - silicon valley areas,
  - free counterfeit products areas,
  - geographical indication areas,
  - traditional customary rights areas (*ulayat* areas).