LEGAL PROTECTION OF PATENT RIGHTS IN INDONESIA

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Abstract

Intellectual Property Rights are rights derived from the work, initiative and creativity in the form of a real man. Intellectual Property rights consist of privately owned property and Industry. Patents are part of Intellectual Property Rights in Industry. Patents are granted the right of the government and is exclusive. Exclusive rights of patent holders is the production of a patented item, usage and sales of goods and deeds relating to the import and sale of such goods store. Legal protection of intellectual property rights in the patent field ketentuan regulated in Law Number 14 of 2001. In chapter 8, paragraph (1) time protection for 20 years from the date of receipt and can not be extended. And Article 9 set period of patent protection for simple for 10 (ten) years and can not be extended. Protection of intellectual property rights is no guarantee to the public to respect the right of initiative and the reaction and to provide protection will upload their work. The higher appreciation of the intellectual property rights of a nation then the future will be better.

Keywords: Intellectual Property Rights, Patent Protection

A. INTRODUCTION

PROTECTION OF PATENT LAW
BY SETYO PURWANTORO
DIRECTORATE GENERAL
DIRECTORATE OF THE
MINISTRY OF LAW AND HUMAN

RIGHTS INTELLECTUAL
PROPERTY 05/20/15 1

Definition And Type 05/20/15

Patents are: Exclusive rights granted
by the State to Inventors for the results
of their Inventions in the field of
technology, for a certain period of time

carrying out their Inventions themselves or giving their consent to other parties to implement them 05/20/15.

TYPES OF PATENTS

1. Patents (Invention)
2. Simple Patents (Simple Patent, Utility Models). 05/20/15 4

PATENT DIFFERENCES N Simple Patent Patent Information 1 Number of Claims 1 invention or several inventions which constitute one invention 1 invention 2 Protection Period 20 years from the date of receipt of a 10-year patent application from the date of receipt 3

Announcement of Application 18 months after the date of receipt of 3 months after the date of receipt 4 Period of Submitting Objection 6 months from the date of announcement 3 months from the date of publication 5 Which is examined in substantive examination Novelty (novelty), inventive step & can be applied in industry Novelty (novelty) & can be applied in industry 6 Length of Substantive Examination 36 the month from the date of receipt of the 24-month substantive examination application from the date of receipt of the request for substantive examination 7 Object of Product Patent and Process of Product or

UNDERSTANDING EXCLUSIVE RIGHTS

Rights granted to Patent holders by the State For a specified period of 10-20 years Carrying out commercially

Giving license rights to other parties Other parties without the Patent holder's consent are prohibited from carrying out the Patent 05/20/2015 6.

UNDERSTANDING EXCLUSIVE RIGHTS

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Invention is: The idea of an inventor as outlined in a specific problem solving activity in the field of technology can be in the form of a product or process or a product or process improvement and development 05/20/15 7

Inventor adalah seorang yang secara sendiri atau beberapa orang yang secara bersama-sama melaksanakan ide yang dituangkan ke dalam kegiatan yang menghasilkan Invensi 05/20/15 8 Patents are given for inventions that are new and contain inventive steps and can be applied in industry.

Sederhana Simple patents are given for inventions in the form of new products or tools and have practical utility values due to shape, configuration, construction or components and can be applied in industry. Invention Requirements Can Be Given Protection 05/20/15 9

The process or product of the announcement and use or implementation is contrary to the applicable legislation, religious morality, public order or morality; b. Methods of examination, treatment, treatment and / or surgery applied to humans and / or animals; c. Theories and methods in the field of science and mathematics, or d. i. All living things, except microorganisms; ii. A biological process that is essential for producing plants or animals, except for non-biological processes or microbiological processes. Patents are not given for Invention 05/20/15 10

05/20/15 11 SUBMISSION OF PATENT APPLICATIONS

- Patents are granted on the basis of an Application
- Submission of a Patent Application can be done in 3 ways, namely: a. Directly to the Directorate General of Intellectual Property Rights; b. Through power, in this case the IPR consultant; c. Through the Regional Office of the Ministry of Law and Human Rights throughout Indonesia.

05/20/15 12 vensi An invention that is registered as a Patent must be one invention or several inventions which constitute a unity of invention. — Patent registration is first to file.
12. Time Line Application for Max. Patent 18 months 6 months max. 36 months Substantive Examination Period Publication Filling Date Decision on total procedure + 72

months Publication of Patent Application Publication of Granted / Issued Patent Max. 36 months period of application for substantive examination Formalities Check (Waiting Period)

Time Line Application for Simple Patent Max. 3 months 3 months max. 18 months Substantive Examination Period Publication Filling Date Formalities (Waiting Period) Decision on total procedure + 24 months Publication of Simple Patent Application Publication of Granted / Issued Patents

SUBJECTS AND TIME PROTECTION 05/20/15 22

. 05/20/15 23 Those who are entitled to obtain a Patent are Inventors or those who further receive the rights of the Inventor concerned. If an invention is produced by several people together, the right to the invention is jointly owned by the inventors concerned SUBJECT PATENT

24. 05/20/15 24 o In a work relationship, the party giving the work is the party entitled to obtain a Patent, unless otherwise agreed. O Employees and workers who use data and / or facilities available in the work, then the office where the employee is work who is entitled to get a patent

25. 05/20/15 25 20 Year Patents as of the Filing Date. Simple Patent of 10 Years from the Date of Receipt of Note: Protection of Patent law in regional scope, even though the novelty of the universal scope. Both types of Patents above cannot be extended for the period of protection.
TIME PROTECTION

RIGHTS AND OBLIGATIONS **05/20/15 26**

. 05/20/15 27 Rights of Patent Holders Economically: Patent holders have exclusive rights to carry out their patents and prohibit other parties without their consent: making, using, selling, importing, renting, surrendering or delivering their Patent products (Article 16 of Law No. 14 of 2001). Morally: A right that was born from the principle of recognition in the form of a Patent Certificate to keep the name of the Inventor. Excluded from these provisions if the use of the Patent is for the benefit of education, research, trial, or analysis insofar as it does not harm the reasonable interests of the Patent Holder.

20. 05/20/15 28 1. Making a product or using a process that is patented in Indonesia unless it is only feasible to do it regionally. 2. Pay annual fees. Obligations of Patent Holders:
PATENTS.

22. COMMISSION COMPARISON
OF PATENT 05/20/15 30

Patent Appeal Commission is an Independent Special Agency and Is in the Environment of the Ministry in charge of Intellectual Property Rights
05/20/15 31

05/20/15 32 ¶ Appeals can be submitted against the rejection of the application relating to the reasons and the basis for consideration of matters that are substantive and submitted no later than 3 (three) months from the date of delivery of the notice of rejection of the application ¶ In the case the appeal commission rejects the appeal, the applicant or his proxy can file a claim against the decision to the commercial court within a maximum period of 3 (three) months from the date the decision is received
REQUIRED LICENSE AND
LICENSE 33

License is a permit granted by a Patent Holder to another party based on an agreement granting the right to enjoy economic benefits from a Patent that is given protection within a certain period of time and conditions. 34

Compulsory license is a license to carry out a patent granted based on a decision of the Directorate General on the basis of an application 35

Each party may submit a compulsory license application to the Directorate General to implement the relevant

Patent after the period of 36 (thirty six) months from the date of the patent application by paying the fee for the following reasons: 1. that the Patent concerned is not implemented or implemented not entirely in Indonesia by the Patent Holder or 2. that the Patent has been carried out by the Patent or Licensee Holder in the form and in a manner that is detrimental to the interests of the community. 36

IMPLEMENTATION OF PATENTS BY THE GOVERNMENT

Parties Who Can Request Patent Implementation by the Government Are Government (Ministries / Institutions) Related to — Governments Can Implement Their Own Patents Regarding Government Matters Argued A Patent In Indonesia Is Very Important That Is For: a. Defense of State Security; Or b. Very Urgent Needs for the Interest of the Community. Patent implementation by the Government is carried out with the provision of reasonable compensation to the Patent Holder 38

TRANSFER OF PATENT 05/20/15 39

Transfer of Patent can occur due to: 1. Inheritance; 2. Hibah; 3. Will; 4. Written Agreement; or 5. Another reason justified by legislation.

Transfer of patent must be registered with the directorate general. If it is not registered, the transfer of the patent

can be declared null and void 05/20/15 41

ANNUAL COSTS 05/20/15 42

1) Payment of annual fees for the first time must be made no later than a year from the date the patent is given. 2) For the payment of the following years, as long as the Patent is valid, it must be done no later than the same date as the date of the patent application or the recording of the relevant license. 3) Payment of annual fees as referred to in number (1) shall be calculated from the first year of the Application. 43

CANCELLATION OF PATENT 05/20/15 44

CANCEL FOR LAW o CANCEL FOR APPLICATION OF PATENT HOLDERS o CANCEL BASED ON LAW TO NIAGA COURT 45

CANCEL FOR LEGAL Patents are declared null and void if the Patent Holder does not fulfill the obligation to pay annual fees within the period specified in this Law, which is 3 (three) consecutive years. 46

CANCEL ABOUT APPLICATION OF PATENT PATENT PATENTS may be canceled by the Directorate General for all or part of the application for the Patent Holder submitted in writing to the Directorate General 47

CANCEL ABOUT THE LAW OF COURT • A cancellation claim can be submitted by a third party to the Patent Holder through the Commercial Court.

- If the Patent cancellation lawsuit only concerns one or several claims or part of the claim, the cancellation is made only against the claim for which the cancellation was sued 48

**TYPES OF DELICES AND
CRIMINAL SANCTIONS 05/20/15**
49

DELIK TYPE Patent Crime is an offense complaint

CRIMINAL SANCTIONS Anyone who intentionally and without rights violates the rights of the Patent Holder is punished with a maximum imprisonment of 4 (four) years and / or a fine of a maximum of Rp.

500,000,000.00 (five hundred million rupiah). Anyone who intentionally and without rights violates the rights of a Simple Patent Holder to be sentenced to imprisonment for a maximum of 2 (two) years and / or a fine of a maximum of Rp. 250,000,000.00 (two hundred fifty million rupiahs). 51

EXCLUDED FROM CRIMINAL PROVISIONS impor Importing a pharmaceutical product protected by a Patent in Indonesia, which product has been entered into the market in a country by a valid Patent Holder provided that the product is imported in accordance with the applicable legal provisions. ∞ Producing products

a pharmacy protected by a Patent in Indonesia within a period of 2 (two) years before the termination of Patent protection for the purpose of the

licensing process and then marketing after the Patent protection ends.

B. CONCLUSION

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Simple Patent Patent Information 1

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University Of Mitra Indonesia
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Saitama Univer

D.

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