LEGAL PROTECTION OF WEALTH RIGHTS INTELLECTUAL IN PATENT

M. FADEL ZULKARNAIN

155100044

Fakultas Komputer, 448757258

fadelzulkarnain.student@umitra.ac.id

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 ketetapan 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

Patent definition The term patent is used now in legal regulations Indonesia is from the Dutch octrooi, and octrooi comes from Latin from the word auctor auctorizare which means opened.

The point is that a discovery is get the patent open and public. Patents in English are called Patent. According to the WIPO (World Intellectual Property Organization) define patent: "A Patent legally enforceable right

granted by virtue of a law to exclude, for limited time, other from certain acts in relation to describe new invention; the privilege is granted government authority as a matter of right to the person who is entitled to apply for it and who fulfills the prescribed condition " From the above definition we can see the important elements of patents namely that Patent Rights are rights granted by the government and exclusive. Exclusive rights of patent holders are production of patented goods (manufacturing) using (selling) and selling (selling) of these items and actions related to the sale of goods like importing and storing (stocking). For obtaining a patent for an invention must have conditions certain substantive, namely: novelty, can be practiced and industrial applicability has a step inventive (inventive step) and fulfill formal requirements. Patents in the legal sense are special rights given by law by the government to person or legal entity that gets an order. certain times can do the discovery itself or prohibit other parties from using a method of working or contains the item (method, process) the patent is given on request. Patents are entitled obtain a Patent, that is, the inventor or who receives further the inventor's right. Giving Patents is basically based on motivation certain, for example to develop science and technology is also intended to:

a. Award for a work in the form of a new invention (inventive

rewarding) The basis for giving Patents to your audience is based a sense of justice and worthiness of his labor, then he deserves a patent.

b. Giving incentives for an invention and work that is innovative (incentive to invent and innovative) The existence of fair and reasonable incentives for research activities and development to enable development fast technology. This incentive can be given to the person inventor with guaranteed granting rights that cannot in gangu claim a discovery and have the right to withdraw reward benefits in return for real services when discovery it is used in commercial production.

c. Patent as a source of information The patent system not only safeguards the interests of your audience. Patent along with the information issued publicly, so that it becomes general knowledge that can be stimulating next discovery. There are 4 (four) patent system advantages if associated with its role in improving technological and economic development that is :

1. Patents help promote technological development and economy of a country

Patents help create a atmosphere for growth local industries Patents foster the development of science and technology and economics other countries with license facilities; 4 Patents help achieve technology transfer from developed countries to developing country. There are several

patent losses which are related to patent costs which is relatively expensive and has a period of time and a period of protection relatively short, namely 20 years for ordinary patents and 10 years for simple patents. Besides that not all inventions can patented according to the applicable patent law. The patent system is the meeting point of various interests, namely:

- a. The interests of the patent holders
- b. The interests of investors and their
- c. The interests of consumers
- d. The interests of the general public

2. The subject of the patent

Those who are entitled to get a Patent are inventors or ones further accept the inventor's rights. This affirms that only the inventor or further accepts the rights of the inventor who is entitled to obtain a patent for his invention. In certain conditions a discovery can be born, for example because of work service, employment contract and so on. According to the Act Number 14 of 2001 concerning Patent articles 11 through 15 arranged as follows:

- a. If discovery is produced by several people together, those who further receive their rights jointly entitled to the discovery.
- b. In a work agreement, those who are entitled to get a patent an invention that is produced is people who giving a job, unless otherwise agreed.

.
Types of patents

The types of patents known today are:

1. A stand-alone patent does no depend on other patents (independent patent);

2. Patents related to other patents (dependent patent) Linkages can occur if there is an ordinary license relationship compulsory license with other patents and both patents are in different fields;

3. Patent addition or repair patent (Patent of improvement);

4. Patent importation or patent confirmation or patent Revalidation, this Patent is special because the patent has been known outside the country and country give a patent. In Indonesia according to the provisions of the Law Number 14 Year 2001 concerning patents, divided into two forms, namely:

1. Ordinary patent

2. Simple Patents

An invention can be classified as a patent simple because the discovery was not through the research process and deep research and development. Simple patents only have rights for 1 (one) claim, direct substantive examination is carried out without request from inventor. This is different from ordinary patents that go through the research and development process deep and can have many rights to claim. Not every invention gets a patent protection facility. There are some exceptions that are absolute and limited. Absolute exceptions have criteria which certainly includes:

1. Findings about conflicting processes or products with applicable laws and regulations, morality religion, public order or morality

2. Discovery of Science theories and methods and Mathematics

3. The discovery of methods of examination, treatment, treatment and or surgery applied to humans and or animals

4. Discovery of living things except microorganisms;

5. The discovery of biological processes that are essential for producing plants or animals except for nonbiological processes microbiology. Limited patent exceptions, namely giving a patent for example deferred due to public interest, this provision to the essence of delaying the granting of patents, meaning if an invention considered important for the people or for the smooth implementation of the program certain development, the government can delay granting patents for a certain period of time, in Indonesia for a maximum of 5 years since stipulation of government decisions.

2. Legal Protection of Intellectual Property Rights concerning Patents
The validity period of patents in each country is different to the provisions of the applicable Law in the country concerned. Some provide patent protection for 5 years, 10 year, 15 years to 20 years depending on economic conditions and applicable regulation. In Indonesia according to the terms Umdang- Law Number 14

Year 2001 concerning term patent article 8 paragraph (1) the protection time is 20 years from the date of receipt and cannot be extended. And Article 9 regulates the time period protection for simple patents for 10 (ten) years and cannot be extended.

a. Transfer of patent

Patent rights as property rights can be transferred either

in whole or in part in several ways:

a. Inheritance

b. Grant

c. Will

Agreement (license agreement)

Which is justified according to the Act All forms of transfer must be registered with the Directorate General Intellectual Property Rights and recorded in the public register patent, if it is not registered, the transfer process illegitimate and null and void. Transfer of patent is not delete the inventor's rights (inventor's rights) to remain included name and identity in the relevant patent, rights these are moral raids.

b. Transfer of patent through a license agreement

Transfer of patent through agreement can take the form of an agreement license (Licensing Agreement). This agreement contains that holder Patent rights give permission (license) to other parties based on the letter agreement to carry out exclusive acts from the rights owner patent. The agreement must be registered with the Directorate General Intellectual Property Rights so that agreements that contain requirements can be counteracted - unfair and unnatural

requirements. No License Agreement it is permissible to generate consequences that are detrimental to the economy Indonesia or contain restrictions that impede ability Indonesian people in mastering and developing technology in general and relating to the invention given the patent in particular. There are three forms of licenses encountered in practice, namely

1. Exclusive license

Exclusive license, patent holder agrees not to give licenses to other clients / licenses only given to

1. (one) party only. So that the patent holder no longer entitled to run the invention (article 70)

2. non-exclusive license This license the patent holder transfers to a number parties and also still have the right to run or use. Agreement (license agreement)

Which is justified according to the Act

All forms of transfer must be registered with the Directorate General Intellectual Property Rights and recorded in the public register patent, if it is not registered, the transfer process illegitimate and null and void. Transfer of patent is not delete the inventor's rights (inventor's rights) to remain included name and identity in the relevant patent, rights these are moral rights.

b. Transfer of patent through a license agreement Transfer of patent through agreement can take the form of an agreement license (Licensing Agreement). This agreement contains that holder Patent rights give

permission (license) to other parties based on the letter agreement to carry out exclusive acts from the rights owner patent. The license agreement must be registered with the Directorate General Intellectual Property Rights so that agreements that contain requirements can be counteracted - unfair and unnatural requirements. No License Agreement it is permissible to generate consequences that are detrimental to the economy Indonesia or contain restrictions that impede ability Indonesian people in mastering and developing technology in general and relating to the invention given the patent in particular. There are three forms of licenses encountered in practice, namely:

1. Exclusive license

Exclusive license, patent holder agrees not to give licenses to other clients / licenses only given to 1 (one) party only. So that the patent holder no longer entitled to run the invention

2. non-exclusive license

This license the patent holder transfers to a number parties and also still have the right to run or use

d. Conditions for granting a patent In giving this Patent not all inventions will get it. To get it an invention must be certain substantive requirements, namely novelty, can be practiced in industrial applicability, it has value inventive step (inventive step), and also fulfill the requirements formal. According to Article 56 Government regulations Number 34 Year 1991 concerning the Procedure

for Requesting Patents, determining that a granted patent is carried out, among others, by considering

- a. Novelty aspect
- b. Inventive steps contained in inventive step)
- c. Can or not the invention is applied or used in industry (industrial applicability)
- d. Whether the relevant invention is included or not included in the discovery group that cannot give a patent.
- e. Is the inventor or the person who receives further rights the inventor is entitled or not entitled to Patents for discovery that is.
- f. Are these findings contrary to regulations, legislation, public order and morality. the invention can be said to be Patentable if it fulfills the third substantive conditions are novelty, inventive step and industrial applicability

B. CONCLUSION

Intellectual Property Rights are rights derived from works, initiative, and the creativity of the intellectual abilities of humans who possess benefits and useful in supporting human life and has economic value. This fact forces us to do management of IPR proportionally based on principles and the rules of national law and international law. Handling, system management, and development of national IPR systems must be done comprehensively. Not only done with legal approach (legal approach) but also with a technological approach and

business (business and technological approach). Wealth Rights Intellectual consisting of copyrights, brands, patents, trade secrets, designs industry, integrated circuit layout design, Variety of plants is a right which must be protected and regulated by the state. Patent as one part of Intellectual Property Rights which has economic value the level of regulation and protection is regulated in Law No 14 of 2001. The period of patent protection is regulated in article 8 (1

C. ACKNOWLEDGEMENT

University Of Indonesia
University Of Mitra Indonesia
Telkom University
University Of Melbourne
Saitama Univer

D. REFERENCE (Based ISO 690)

- [1] A. S. Putra And O. M. Febriani, "Knowledge Management Online Application In Pdam Lampung Province," In *Prosiding International Conference On Information Technology And Business (Icibt)*, 2018, Pp. 181–187.
- [2] A. S. Putra, O. M. Febriani, And B. Bachry, "Implementasi Genetic Fuzzy System Untuk Mengidentifikasi Hasil Curian Kendaraan Bermotor Di Polda Lampung," *J. Sist. Inf. Dan Manaj. Basis Data*, Vol. 1, No. 1, Pp. 21–30, 2018.
- [3] O. M. Febriani And A. S. Putra,

- “Sistem Informasi Monitoring Inventori Barang Pada Balai Riset Standardisasi Industri Bandar Lampung,” *J. Inform.*, Vol. 13, No. 1, Pp. 90–98, 2014.
- [4] Putra, Arie Setya. "2018 Artikel Struktur Data, Audit Dan Jaringan Komputer." (2018).
- [5] Putra, A. S. (2018, July 17). Paperplain Fundamental Create Application With Borland Delphi 7.0 University Of Mitra Indonesia. Retrieved From [Osf.io/Pbrn9](https://osf.io/Pbrn9)

E. REFERENCE(Based APA)

Putra, A. S., Aryanti, D. R., & Hartati, I. (2018, November). Metode SAW (Simple Additive Weighting) sebagai Sistem Pendukung Keputusan Guru Berprestasi (Studi Kasus: SMK Global Surya). In *Prosiding Seminar Nasional Darmajaya* (Vol. 1, No. 1, pp. 85-97).

Sari, D. P., Febriani, O. M., & Putra, A. S. (2018, November). Perancangan Sistem Informasi SDM Berprestasi pada SD Global Surya. In *Prosiding Seminar Nasional Darmajaya* (Vol. 1, No. 1, pp. 289-294).

Putra, A. S. (2018). Paperplain: Execution Fundamental Create Application With Borland Delphi 7.0 University Of Mitra Indonesia.

Putra, A. S., Sukri, H., & Zuhri, K. Sistem Monitoring Realtime Jaringan Irigasi Desa (JIDES) Dengan Konsep Jaringan Sensor Nirkabel. *IJEIS (Indonesian Journal of Electronics and Instrumentation Systems)*, 8(2), 221-232.

Darmawan, A., Yuliawati, D., Marcella, O., & Firmandala, R. (2016). Sistem Absensi dan Pelaporan Berbasis Fingerprint dan SMS Gateway. *EXPLORE*, 7(1).

Febriani, O. M., Wahyuni, T., & Yusuf, S. (2017). DESIGN OF WEBSITE-BASED INFORMATION SYSTEM FOR EDOCUMENT ADMINISTRASI IN THE COMMUNITY SERVICE UNIT (A Case Study at Rajabasa District). *INTERNATIONAL JOURNAL OF COMPUTERS & TECHNOLOGY*, 16(7), 7010-7020.

Febriani, O. M., & Wahyuni, T. (2017, October). PERANCANGAN SISTEM E-DOCUMENT ADMINISTRASI LOGBOOK PENELITIAN PADA UNIT LAYANAN DI BANDAR LAMPUNG. In *Prosiding Seminar Nasional Darmajaya* (Vol. 1, No. 1, pp. 187-194).

Febriani, O. M., & Permadi, A. B. (2017). Implementasi Sistem Aplikasi Data Bimbingan dan Pelanggaran Siswa pada Sekolah Menengah Atas di Lampung Tengah dengan Metode Analisis dan Desain Sistem Terdistribusi (SSAD). *EXPERT*, 7(1).

Febriani, O. M., & Ambarwati, L. (2015). PERANCANGAN APLIKASI PENGOLAHAN DATA PENJUALAN UKM KELANTING KHAS TELO DESA SIDOHARJO KECAMATAN JATI AGUNG KABUPATEN LAMPUNG SELATAN. *Jurnal Teknologi*

Informasi dan Bisnis Pengabdian Masyarakat Darmajaya, 1(1), 77-95.

Febriani, O. M. (2015). Rancang Bangun Aplikasi E-commerce menggunakan Freewebstore pada UKM Kelanting di Desa Sidoharjo Lampung Selatan. *Prosiding Sembistek 2014, 1(02)*, 446-458.