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### 1. Trademark Applications to be Decided in 2017

Approximately 211.000 trademark applications which are pending at the Indonesian Trademark Office need to be decided within this year. Director of Trademark and Geographical Indication, Mr. Fathlurachman, stated that 300 trademark applications filed each day to the Indonesian Trademark Office, which means that it may reach up to 65.000 trademark applications filed per year.

Limited human resources handling these applications caused the backlog of trademark applications. In response of the above, recently, the Director of Trademark and Geographical Indications announce that Indonesian Trademark Office shall cooperate and appoint a vendor to expedite the registration process, especially in terms of issuing the Trademark Certificate.

The policy is executed to conform the new Trademark Law No. 20 year 2016, in which a trademark application

shall be concluded in less than 9 (nine) months. This program may accelerate the administrative process for Trademark Application.

# TRADEMARK

The Government Regulation for ratification of Madrid Protocol is still under discussion which is to be concluded expected to be concluded this year

*Source: from many*

## **2. The Ministry Regulation No. 67 year 2016 regarding Trademark Application**

Pursuant to new Trademark Law No. 20 year 2016 which came into effect on November 25, 2016, the Ministry of Law and Human Rights issued the Ministerial Regulation No.67 year 2016 which has been enacted since December 2016, and published by the DGIP on February 17, 2017.

The said Ministerial Regulation is the implementing regulation for the new Trademark Law which contains the following matters:

- a. Requirements and procedures for filing a trademark application;
- b. Classification of goods and services which should be in accordance with Nice Agreement;
- c. Rejection of a trademark application;
- d. Revision of a trademark registration certificate;
- e. Requirements and procedures for filing trademark renewal;
- f. Requirements and procedures for filing a recordal of changes (name and/or address);
- g. Requirements and procedures for filing a recordal of assignment;
- h. Collective trademark application;
- i. Official excerpt of Trademark Certificate

The new Ministerial Regulation also stipulates the criteria of a well-known mark as follows:

- a) Widely recognized by the society or consumers concerning the said mark in the related line of business;
- b) Sales volume of the goods/services bearing the said mark;
- c) Market share of the brand (mark);

- d) Territory where the mark is being used;
- e) Duration of the mark being used;
- f) The intensity and promotion of the mark, including the investment value for promotion;
- g) Mark registrations in other countries;
- h) Success rate in enforcement of rights, particularly the recognition as a well-known mark by the authority;
- i) Value of the mark which earned by its reputation and quality assurance.

Therefore, well-known mark owners should have a better protection under the new Trademark law and the complementing Ministerial Regulation.

Source : BOR

### 3. Cap Kaki Tiga, a famous product that has been withdrawn from Indonesia

The Directorate General of Intellectual Property deleted the trademark registration of “Cap Kaki Tiga” belonging to Wen Ken Drug from the Trademark Gazette, after Russel Vince, a citizen of the United Kingdom, filed a lawsuit against this trademark which has

the similarity with the symbol or logo of the Isle of Man country.

The ruling of the Supreme Court was in favor of the plaintiff resulting the verdict of a cancellation of mark registration. On the contrary, the request of the plaintiff to commercially prohibited the said mark was being refused.



“Since September 2, 2016 the said brand has been crossed out and removed”, said the Director of Trademark and Geographical Indications, DGIP, Ministry of Law and Human Rights, in his written explanation on September 13, 2016.

The arguments of the plaintiff were strengthened by article 3 paragraph (1) and (4) of the Trade-Related Aspects of Intellectual Property Rights (TRIPS). The lawsuit was filed in Indonesia and not in the origin country of the Wen Ken

Drug in Singapore, because the Plaintiff saw that Cap Kaki Tiga trademark only marketed in Indonesia.

*Source: from many*

#### 4. Patent Dispute in Indonesia

Poltak Sijinjak filed an argument of absolute competence in its response to the panel of judges, in the lawsuit of patent deletion filed by PT Rajawali Parama Construction. Poltak as the defendant contested the lawsuit for deletion of patent regarding pump installation.

The defendant's attorney said that the deletion of this patent was improperly filed in the Central Jakarta - District Court, whereas the authority was supposed to be the Patent Appeal Commission. This is in accordance with Article 70 paragraph (1) of Law No.13/2016 on Patents.

The Defendant denied that his patent was invalid and claimed and that his patent was novel and innovative. In

addition, the defendant also claimed that the lawsuit considered vague and unclear because the plaintiff attached two lawsuits into one; patent deletion and trademark deletion, whereas the patent deletion and trademark deletion are regulated in separate regulation.



Meanwhile, the defendant chose not to submit the counter argument and hoped that the judge would immediately provide interim decision on the competence of the absolute exception. The panel of judges, led by Wiwiek Suhartono, gave one week to the parties to submit evidences related to the exception.

The legal counsel of PT Rajawali Parama Construction was reluctant to provide any comment. In the lawsuit, the patent belongs to Poltak claimed a combination between the unit pumps, pipes, and valve combination which was considered as a standard feature of a

pump installation. The function of the valve combination that combines several valve functions is a subject matter that can be expected by an expert in this field.

Moreover, the invention of the combination of valve functions was disclosed in advance on August 31, 2002. While Poltak's patent application was filed on May 20, 2013. Thus, the patent which Poltak have applied contains no inventive step.

The Plaintiff described that Poltak's company, PT Teralindo Lestary was a former agent in Indonesia from 1996 to May 2016, for Armstrong pump which belongs to S.A Armstrong.

Meanwhile, the Plaintiff is now still an official agent S.A Armstrong to expand its market in Indonesia. When the agency was established on May 20, 2013, Poltak filed a patent application to the Directorate of Patent. At that time, Poltak was only an agent and not the inventor.

Plaintiffs had actually revoked the patent lawsuit No. 67 / Pdt.Sus-Patent / 2016 / PN.NIAGA.JKT.PST, however the judge continued the trial of the defendant and co-defendant, Directorate

of Patents has submitted their responses to the judges.

*Source: from many*

##### **5. The Copyright Protection Seminar in DGIP, in cooperation with Japan Patent Office and Content Overseas Distribution Association (CODA)**



Recently in January 2017, the Directorate General of Intellectual Property (DGIP) held a Seminar on the Copyright Protection), which took place in the Hall of DGIP building. The seminar was in cooperation with the Japan Copyright Office (JCO) and the Content Overseas Distribution Association (CODA)

Mr. Aidir Amin David, who is the temporary officer of Director General of Intellectual Property, gave the seminar opening speech. In his speech, Mr. Aidir expressed his gratitude and appreciation

for the successful implementation of the event; this is a real concern and support to the implementation and development of the intellectual property system particularly Copyright in Indonesia.

The event was also attended by the Secretary General of DGIP, Mr. Razilu, Director of Cooperation and Empowerment of DGIP Mrs. Yusanti Dede Mia, Director of Information Technology DGIP Mr. Yasmon, Director of the Copyright and Industrial Design DGIP Mrs. Widhyastari Erni, Director of Investigation and Dispute Resolution DGIP Mr. Salmon Pardede and the invited guests from various Institutions and Agencies.

In addition, to improve services in the administration of Intellectual Property, Indonesia through DGIP has put the law enforcement aspect of Intellectual Property as one of the priorities. The effectiveness of IP law enforcement certainly refers to the level of knowledge and understanding the law enforcement officials on the existence and implementation of the Intellectual Property system itself.

In recognizing the importance of improving the capacity of law enforcement officials, the copyright protection seminar was an opportunity

to gain knowledge and exchanging ideas between relevant law enforcement agencies and stakeholders to collaborate and coordinate in tackling problems of violations of Intellectual Property. The seminar was expected to broaden and increase the awareness of the participants about the importance of copyright protection.

*Source: from dgip*

## **6. The Jakarta Academy Award in Desember 2016, Taman Ismail Marzuki, Jakarta.**

Jakarta Academy 2016 presented the award to Trisutji Djoeliati Kamal (80 years), a composer of classical music who first brought Indonesia to the world scene. As a pianist, Trisutji Kamal was not only good at playing classical music but also the first composer who introduce Indonesian classic music worldwide. She translated her ideas successfully and staged inside and outside the country and has received number of awards.



As a deputy chairman of the Academy of Jakarta, **Toeti Herati Roosseno**, who is also the president director of Biro Oktroi Roosseno, gave the award to Trisutji Djoeliati Kamal. The Jury who assessed the award to Trisutji consist of Maman Mahayana, Karlina Supelli, Carla Bianpoen, Mudji Sutrisno and Nirwan Dewanto.



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