

Indonesia Strengthens Patent Law with New Amendments

Issue 18 | November 2024

Indonesia has amended its Patent Law to strengthen protections for intellectual property, streamline patent processes and better align with international standards.

The third amendment to Law No. 13 of 2016 on Patents ("**Patent Law**"), promulgated on 28 October 2024, aims to address both domestic industrial and research needs.

Key Amendments and Additions

The following are highlights of Law No. 65 of 2024 on the Third Amendment to Law No. 13 of 2016 on Patents ("**Revised Law**"):

1. Broadened Scope of Invention

The Revised Law expands the definition of an invention to include not only specific problem-solving activities in the field of technology through products or processes, or their improvement and development, but also systems, methods, and uses in the field of technology.

2. New Definitions: Traditional Knowledge and Genetic Resources

The Revised Law introduces definitions of 'Traditional Knowledge' and 'Genetic Resources'. These additions bring Indonesia's patent regulations in line with the World Intellectual Property Organization Treaty on Genetic Resources Related to Traditional Knowledge, which Indonesia adopted in July 2024. This treaty ensures that patents involving genetic resources and traditional knowledge are used to benefit national interests while respecting the rights of

patent holders. Inventors using these resources only need to fill out a simple declaration form for their patents.

3. Grace Period Extension

Under the Revised Law, the grace period for patent applications has been extended from 6 months to 12 months. During this period, inventors can publicly present or discuss their invention at official exhibitions, research trials or scientific forums, without risking the loss of patent rights, as long as the patent application is filed within 12 months of the disclosure.

4. Clarification of Patentability for Computer Programs

The Revised Law amends provisions on inventions that cannot be patented. For instance, standard computer programs are excluded from patent protection. However, innovations involving computer software as part of a broader technological system or problem-solving process can be patented. For example, GPS navigation programs, automatic vehicular distance control programs, and remote electrical connectivity programs. This clarification distinguishes clear boundaries between copyright and patent law, especially in the software and technology field. The aim is to make it easier to patent tech-driven innovations, particularly in sectors related to Industry 4.0 and Industry 5.0.

5. Annual Reporting Requirement for Patent Holders

The Revised Law requires patent holders to submit an annual report on the implementation of their patents in Indonesia. This report must be submitted as a statement to the Minister of Law and Human Rights, no later than the end of each year. However, the Revised Law does not specify the types of information that must be included in the report. The goal is to ensure that granted patents are being used effectively and contribute to the development of the Indonesian economy.

6. Extension of Priority Rights

Under the Patent Law, a patent application claiming priority rights must be submitted within 12 months of the priority date. If the application is made after this period, it will be deemed submitted without priority rights. However, the Revised Law relaxes this requirement, extending the 12-month period by an additional 4 months, subject to an additional fee.

7. Patent Substantive Re-Examination

The amendment also broadens the process of substantive re-examinations for patents. Article 63A of the Revised Law outlines the process for applying for a substantive re-examination. It specifies the reasons and deadlines for a submission, as well as the 12-month deadline for a

final decision.

8. Language Requirement

The Revised Law emphasizes that if the patent description is prepared in a foreign language (other than English), the applicant must also provide English and Indonesian versions of the patent description. Failure to comply with this requirement will result in the patent application being deemed withdrawn.

9. Enhanced Licensing Rules

The Revised Law updates mandatory licensing provisions. It sets out clearer guidelines for compulsory licenses in certain circumstances, particularly concerning patents that may lead to monopolistic practices or unhealthy competition. It also introduces exceptions for cases where compulsory licenses may not apply if there is a decision from the Indonesian Competition Commission. This change is intended to balance the interests of patent holders with broader national interests.

10. Additional Fees for more than 10 Claims under a Patent Application

The Revised Law imposes additional official fees for patent applications that include more than 10 claims. This measure aims to streamline the patent filing process and prevent excessive claim filings that could potentially burden the patent examination system.

Implications for Businesses and Patent Holders

The issuance of the Revised Law is expected to lead to an increase in patent applications from both domestic and international applicants. By streamlining the patent registration process, enhancing licensing rules, and aligning with international treaties, the new law should at least in theory make it easier for businesses to secure and manage their patent rights in Indonesia.

For businesses operating in sectors that rely heavily on intellectual property – such as pharmaceuticals, technology and agriculture – the changes should improve legal certainty and encourage greater innovation. The focus on traditional knowledge and genetic resources is expected to boost sectors involved in biotechnology, pharmaceuticals, and natural products.

[1] Article 1 (1) of the Revised Law.

[2] Article 1 (18, 19) of the Revised Law.

[3] Article 6 of the Revised Law.

[4] Article 4 of the Revised Law.

[5] Elucidation of Article 4 (3.d) of the Revised Law.

[6] Article 20A of the Revised Law.

[7] Article 63A of the Revised Law.

[8] Article 34 (3) of the Revised Law.

[9] Article 34 (4) of the Revised Law.

[10] Article 84A the Revised Law.

[11] Article 24 (2a) of the Revised Law.

Click the "download file" button to read the PDF version.

If you have any questions, please contact:

1. [Norma Mutalib](mailto:norma.mutalib@makarim.com), Partner – norma.mutalib@makarim.com
2. Mira Ayu Lestari, Associate - mira.ayu@makarim.com

© 2015 by PT. Makarim & Partners. All rights reserved. This document is confidential and intended solely for the use of the individual user. It is not to be distributed, copied, or used for any other purpose without the prior written consent of PT. Makarim & Partners.