



INDONESIA

INTELLECTUAL PROPERTY HANDBOOK

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Legislation

The Law of the Republic of Indonesia Number 15 of 2001 regarding Trademark. Law 20 of 2016 on Marks and Geographical Indications has been enacted on 25 November 2016.

Definition

A trademark is a sign used for the purpose of indicating a connection between a person having the right to use the sign and his goods or services.

Criteria

- Any logo, number, word, name, label, letter or a combination of the above may constitute a trademark.
- The mark should be distinctive or Capable of differentiation from another's goods or services.
- A Trademark shall not be registered if it contains one of the following elements:-
 - Δ being against the prevailing law, morality, religion, decency and public orders;
 - Δ having no distinguishing power;
 - Δ having been public property; or
 - Δ constituting the explanation of or being related to the goods or services for which registration is applied.

Membership

√ - Paris Convention

√ - Madrid Protocol

Indonesia is a member of the Paris Convention from 1950, whereby applications from convention countries will be subject to the same priority date in Indonesia. The application for priority has to be made within six months of the first application in a convention country.

Rule of Priority

"First to File" is the rule followed by Indonesia in determining priority of trademarks.

Duration and Renewal

A trademark once registered is valid for a term of 10 years and will be subject to protection depending on its further renewal. A 6-months grace period is allocated after the expiry date for the renewal. Once the expiry date has passed, the trade mark will no longer have the benefit of any rights arising from registration.

Procedures

Application

Every applicant is required to submit an application with the Indonesia Intellectual Property Office.

Examination

On submission the Trademarks office will examine the application for statutory compliances. Applicants will be given two months time to rectify incomplete applications else it will result in an automatic withdrawal of the application. On completion of the requirements a filing date will be issued by the office. Substantive examination is done thirty days after the filing date for a period of 9 months.

Publication

An application is published in the Official Bulletin of Marks for a period of 3 months, on passing the examination stage in a maximum period of 10 days.

Opposition

Concerned parties are required to send oppositions concerning the subject matter of a trademark. The common grounds of opposition pertain to prior marks and infringement. Counter statements are required to be submitted within 2 months of the receipt of the opposition letter after which a re-examination will take place. The re-examination should be completed in two months time.

Registration

On completion of the objections and opposition a Certificate of Registration will be issued subject to the payment of a fee. The duration of registration could take a minimum period of 24-36 months. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Indonesia:-

- Application form.
- Power of Attorney.
- Statement of mark owner.
- A list of goods or services (which closely follow the Nice International Classification).
- Twenty (20) clear copy of the mark.
- The full name, nationality and registered address of the applicant.
- Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
- For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade / Service Mark Application

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	Simply signed	On filing date
Statement of Mark Owner	Simply signed	On filing date
Image/Representation of the mark	Together with indication of whether the mark is in color or black and white, Specimen of mark sized 9cm x 9cm	On filing date

Additional Documents for Claiming a Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	The certified copy of priority documents in other language must be provided in English translation.	7 months from filing

Documents for Filing a Request of Records of Assignments & Changes		
Documents	Remarks	Time of Filing
Notarized true copy of Deed of assignment documents	Attested by the Notary Public	Anytime after registration
Power of Attorney	Simply signed	Anytime after registration
Statement of Use of Mark	Simply signed	Anytime after registration

Documents for Filing an Opposition of Counter-Opposition (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)		
Documents	Remarks	Time of Filing
Power of Attorney	Simply signed	On filing date
Copy of registrations in various countries		On filing date
Other supporting documents such as brochures, advertising materials, company's website, etc.		On filing date

In Indonesia, patent protection is obtainable by way of either entering the national phase of a Patent Cooperation Treaty (PCT) application or filing a direct national application.

Legislation

With the passing of the new Patent Law (Law No.13 of 2016) and its enactment, all national filings which were filed in Indonesia on and from 26 August 2016 will be processed under the new Patent Law, Law No. 13 of 2016. However, all applications which are still pending on the 26 August when Law 13 of 2016 was enacted, will be processed by the previous patent Law, i.e. Law No.14 of 2001.

Patentability Criteria

An invention is patentable if:-

- novel
- it involves an inventive step
- it is industrially applicable

Utility Innovations

There are 2 kinds of patents in Indonesia, namely, Patent and Simple Patent (Utility Model). Simple Patent shall be granted for a period of (10) ten years commencing on the date of issuance of the Letter of Simple Patent.

Membership

- √ - Paris Convention
- √ - PCT

Indonesia is a member of the Paris Convention from 1950, whereby applications from convention countries will be subject to the same priority date in Indonesia. The application for priority has to be made within six months of the first application in a convention country.

Indonesia is also a member of the PCT since 1997. An applicant who has made an international patent application may file and/or prosecute the patent application during its national phase entry into Indonesia within 30 months from the filing date of the international application or from the earliest priority date of the application if a priority is claimed.

Rule of Priority

"First to File" is the rule followed by Indonesia in determining priority of patents.

Duration

A registered patent is valid for a term of 20 years whereas that of a simple patent is for 10 years.

Procedures

▼ Filing of Patent Application

Every applicant is required to submit an application within 12 months of priority date.

▼ Publication

A patent application will be published within 18 months of the filing date.

▼ Opposition

The publication is for a duration of 6 months during which oppositions are invited from interested parties. The statements of opposition and counter statement will be considered in the examination stage.

▼ Substantive Examination

A request for examination has to be filed within 30 months after the priority filing date of the application else could result in automatic withdrawal of the application. Also a simple patent is examined only for novelty.

▼ Registration

The patent office is obligated to grant or reject a patent within 30 months after the receipt of an examination date. On successful completion of formalities a patent certificate will be issued by the office and the invention will be listed in the general register of patent.

In the case of simple patents, the time limit for competing substantive examination is 12 months from the filing date, reduced from 24 months under the old law.

Filing Requirements

The following information and/or documents are required to file an application for a patent application in Indonesia:-

Direct National Application:-

- Request for the grant of a patent:-
 - (a) the name and address of the applicant;
 - (b) the name and address of the inventor;
 - (c) a specification comprising a description, claims and any necessary drawings; and
 - (d) the country and filing particulars of basic application whose priority is claimed.
- Appointment of Patent Agent.
- Filing of an assignment from inventor to applicant.

PCT National Phase Application:-

- A copy of the PCT application in English language (i.e. request form PCT/RO/101);
- The details of the PCT application (suitably, the bibliographic page as published by WIPO);
- PCT specification as originally filed;
- International Preliminary Report on Patentability;
- One copy of any amendments filed in the international phase (in or translated to English);
- Power of Attorney;
- Filing of an assignment from inventor to applicant.

Documents To Be Furnished For Filing A Patent Application in Indonesia

Basic Requirements		
Documents	Remarks	Time of Filing
Patent specification, claims and extract in English	translated into Indonesian Language.	On filing date
Drawings	(If Any)	One month from application date

Additional Requirements		
Documents	Remarks	Time of Filing
Priority documents	With certified English translation	16 month from priority date (non-extendable)
Power of Attorney	No legalization requirement	1 month from application date
Assignment of Invention (if the applicant is not the inventor)	No legalization requirement	1 month from application date

Additional Documents for Entry of PCT National Phase in Indonesia	
Documents	Time of Filing
Form PCT/IB/306 or Notarized copy of Certificated of Change	2 month from application date
PCT specification as originally files	1 month from application date
Form PCT/RO/101	1 month from application date
Form PCT/IB/332	1 month from application date
Form PCT/IPEA/401	1 month from application date
Form PCT/IPEA/408	1 month from application date
Form PCT/IPEA/416	1 month from application date
Amendments file in the international phase	Between application until substantive examination request

Legislation

Law No. 31 of 2000

Definition

Industrial Design shall mean a creation on the shape, configuration, or the composition of lines or colours, or lines and colours, or the combination thereof in a three or two dimensional form which gives aesthetic impression and can be realized in a three or two dimensional pattern and used to produce a product, goods or an industrial commodity and a handy craft.

Criteria

Industrial Design Protection will be given to a design which has a aesthetic feature and the design must be a new design.

Rule of Priority

An Industrial Design Application must be filed within 6 months from its priority date.

Duration and Renewal

An Industrial design registration is protected for 10 years from its filing date, and it cannot be renewed.

Procedures

▼ Application

Every design application has to be filed with the Indonesian Patent Office. Incomplete applicants will be given 3 months for rectification, else the application will be deemed withdrawn. An application number and filing date will be issued on submission of the application.

▼ Publication

Applications will be published for 3 months from the filing date. On request it can be extended to a maximum period of twelve months.

▼ Opposition

Oppositions are invited during the publication period from concerned parties. A counter statement for the same has to be submitted within 3 months after the date of receipt of notification from the Director General.

▼ Substantive Examination

A substantive examination will be conducted only during oppositions. Opposition and counter statements are taken into consideration during the examination. The decision of registration or vice versa is not to 6 months after the expiration of the publication period.

▼ Registration

A certificate of registration will then be issued within 30 days of the end of the examination.

Filing Requirements

The following information and/or documents are required to file an application for an industrial design application in Indonesia:-

- Application form:-
 - (a) the name and address of the applicant;
 - (b) Description of the design;
 - (c) the country and filing particulars of basic application whose priority is claimed; and
 - (d) Full name and address of the author.
- Power of Attorney.
- Representations of the design.
- Priority documents and certified English translation (if necessary) of the priority document.

Documents To Be Furnished For Filing An Industrial Design Application in Indonesia

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	Simply signed	On filing date
Statement of Design Owner	Simply signed	On filing date
Description of Design	To be translated to English language	On filing date
Physical sample (if available/ possible)	If the item is considerably large, drawings or photographs, taken from every angle of the item, can be made in lieu of a sample.	On filing date
Drawings	Floppy diskettes or CD-ROM is acceptable on A4 paper	On filing date

Additional Documents for Claiming Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	To be translated to English language	2 months from filing

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