

INDONESIA IP REGIME UPDATE: RECORDAL OF IP LICENCE AGREEMENT

A. Overview

Under the prevailing intellectual property (“IP”) laws in Indonesia, it is mandatory to record an IP licence agreement with the Directorate General of IP (“DGIP”). In the absence of recordal, such licence shall not have any legal consequences on any third parties. For the last 20 years, however, there was no implementing regulation for the above-mentioned requirement. Therefore, most licences could not be filed.

B. Decree No. 8 on Requirements and Procedures for Intellectual Property Licence Recordal

On 24 February 2016, the Ministry of Law and Human Rights (“MLHR”) issued the Ministerial Decree No. 8 of 2016 on Requirements and Procedures for Intellectual Property Licence Recordal (“**Regulation 8/2016**”), which serves as the implementing regulation for the recordal of IP licences.

(i) *Who may file the recordal application?*

Under Regulation 8/2016, the licensor, licensee or its proxy (i.e. a local IP consultant if the applicant is a foreign party or if the IP rights are owned by a foreign party) may file an application to record an IP licence agreement in respect of any of the following IP rights, including copyright and neighbouring rights, patent, trade mark, industrial design, layout design of integrated circuit, and trade secrets.

The request can be submitted manually in writing to the MLHR or online through the DGIP’s official website, although it bears noting that electronic filing is currently not available.

(ii) *Requirements for recordal applications*

Under Regulation 8/2016, a recordal application must be accompanied by the following documents:

1. a copy of the licence agreement or proof of the licence agreement;
2. a copy or an official excerpt of the concerned patent/ trade mark/industrial design/layout design of integrated circuit, or proof of ownership of copyright/neighbouring rights/trade secrets;
3. an original Power of Attorney (if the application is made via a proxy);

4. a special statement form signed by the applicant confirming that the licence agreement to be recorded relates to IP rights that:
 - a. are still within the protection period;
 - b. do not harm national interest; and
 - c. do not violate any laws and regulations, ethics and public order; and
5. original receipt of payment of the relevant official fees (which fees are stipulated in the Government Regulation No. 45 of 2014 concerning Types and Tariffs of Non-Tax State Revenue Applicable to the Ministry of Law and Human Rights).

(iii) *Examination*

Once an application for recording an IP licence agreement is filed, the application will be examined. If there are any formal requirements that have not been complied with, the applicant will be notified and given 10 days within which to comply. If the applicant fails to do so, the DGIP will consider the application to be withdrawn. If all the requirements have been complied with, the licence agreement will be recorded and published on DGIP's official website.

(iv) *Validity period*

The recordal of an IP licence agreement will be valid for 5 years. Subsequent re-applications can be made after the recordal period expires, subject to the condition that upon refiling, the concerned IP rights must still be valid.

Should you have any queries as to how this may affect your organisation or require further information, please do not hesitate to email us.



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This article is intended to be a brief note on the updates to the IP system in Indonesia, and is not intended to be comprehensive nor should it be construed as legal advice.