

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 20 OF 2016
ON
MARKS AND GEOGRAPHICAL INDICATIONS

BY THE BLESSINGS OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in the global trade era, in accordance with the ratified international conventions, Marks and Geographical Indications play essential roles particularly in sustaining fair, equitable business competition, consumer protection, as well as protection for domestic Micro Small Medium Enterprises and Industries;
 - b. that in order to improve services and provide legal certainty to industry, trade, and investment in facing local, national, regional, and international economic development as well as information technology and communication development, it needs to be supported with more sufficient laws and regulations in the field of Marks and Geographical Indications;
 - c. that Law Number 15 of 2001 on Marks has limitation and is incapable of accommodating the developing needs of the society in the field of Marks and Geographical Indications as well as securing protection for local and national economic potentials; therefore, it needs to be changed;

- d. that based on the considerations as referred to in point a, point b, and point c, it is necessary to make a Law on Marks and Geographical Indications;

Observing : 1. Article 5 section (1), Article 18A section (2), Article 18B section (2), Article 20, and Article 33 of the 1945 Constitution of the Republic of Indonesia;

2. Law Number 7 of 1994 on the Ratification of the Agreement Establishing the World Trade Organization (State Gazette of the Republic of Indonesia of 1994 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 3564);

With the Joint Approval of
THE HOUSE OF REPRESENTATIVES
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact : LAW ON MARKS AND GEOGRAPHICAL INDICATIONS.

CHAPTER I GENERAL PROVISIONS

Article 1

In this law:

1. Mark means any sign capable of being represented graphically in the form of drawings, logos, names, words, letters, numerals, colors arrangement, in 2 (two) and/or 3 (three) dimensional shape, sounds, holograms, or combination of 2 (two) or more of those elements to distinguish goods and/or services produced by a person or legal entity in trading goods and/or services.
2. Trademark means any Mark used for goods traded collectively by a person or several persons or a legal entity to distinguish other similar goods.

3. Service Mark means any Mark used for services traded by a person or several persons collectively or legal entity to distinguish other similar services.
4. Collective Mark means any Mark used for goods and/or services entailing similar characteristics concerning nature, general characteristic, quality of goods or services as well as supervision that will be traded by several persons or entities to distinguish with other similar goods and/or services.
5. Right on Mark means the exclusive right granted by the State to a registered Mark owner for a definite period to use his/her Mark or authorize others to do otherwise.
6. Geographical Indication means any indication which identifies goods and/or a product as originating from a particular region of which its geographical environment factors including nature, labor, or combination of both factors are attributable to a given reputation, quality, and characteristics of the produced goods and/or product.
7. Right on Geographical Indications means the exclusive right granted by the State to owner of registered Geographical Indications, provided that its reputation, quality and characteristics of which serve as the ground for granting protection of Geographical Indications subsist.
8. Application means any request for Mark or Geographical Indication registration submitted to the Minister.
9. Applicant means any party filing for Mark or Geographical Indication Application.
10. User of Geographical Indications means any party having authorization from owner of the right on registered Geographical Indications to process and/or market goods and/or products of Geographical Indications.
11. Document Describing Geographical Indications means any document containing information, including reputation, quality, and characteristic of goods and/or products relevant to the geographical factor of the goods and/or products applied for Geographical Indications.
12. Examiner means a Mark Examiner as functional officer as his/her expertise is appointed and discharged by the

Minister to conduct substantive examination of the Application for Mark registration.

13. Proxy means an intellectual property consultant residing or having a permanent domicile in the territory of the Unitary State of the Republic of Indonesia.
14. Intellectual Property Consultant means any person having expertise in the field of intellectual property and registered as Intellectual Property Consultant, also specifically provide services in filing and managing an intellectual property Application.
15. Expert Team of Geographical Indications means a team consisting of persons having expertise to assess Document Describing Geographical Indications and provide considerations/recommendation to the Minister on the registration, revision, cancellation, technical counseling, and/or supervision of national Geographical Indications.
16. Filing Date means a date of receipt of Application that has satisfied minimum requirement.
17. Priority Right means the Applicant's right to file an Application of which the country of origin is a member of the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization to be acknowledged that the Filing Date of the country of origin is the priority date in the designated country which is also a member State of both agreements, provided that the application is submitted within the period defined based on such treaties.
18. License means any permit granted by the owner of a registered Mark to another party based on written agreement in accordance with laws and regulations to use the registered Mark.
19. Person means a natural person or legal entity.
20. Minister means the minister administering government affairs in the legal field.
21. Mailing Date means the date of postage stamp and/or date on which the letter is mailed electronically.
22. Day means a work day.

- 23. Mark Appeal Commission means an independent special board within the ministry administering government affairs in the legal field.
- 24. Mark Gazette means an official gazette periodically published by the Minister electronically or non-electronically and containing provisions regarding Marks under this Law.

CHAPTER II

SCOPE OF MARKS

Article 2

- (1) The scope of this Law comprises:
 - a. Marks; and
 - b. Geographical Indications.
- (2) The Marks as referred to in section(1) point a comprises:
 - a. Trademarks; and
 - b. Service Marks.
- (3) Protected Marks consist of signs in the form of drawings, logos, names, words, numerals, color arrangement, in 2 (two) and/or 3 (three) dimensional shape, sounds, holograms, or combination of 2 (two) or more of those elements to distinguish goods and/or services produced by a person or legal entity in trading of goods and/or services.

Article 3

A Right on Mark is obtained after the Mark is registered.

CHAPTER III

APPLICATION FOR REGISTRATION OF MARK

Part One

Requirements of and Procedures for Application

Article 4

- (1) Application for registration of Mark is filed by the Applicant or his/her Proxy to the Minister electronically or non-electronically in the Indonesian language.

- (2) The Application as referred to in section (1) must contain:
 - a. date, month, and year of Application;
 - b. full name, nationality, and address of Applicant;
 - c. full name and address of Proxy if Application is filed by his/her Proxy;
 - d. color(s) if the Mark being applied for registration use color elements;
 - e. country and date of basic Mark application if the Application is filed using Priority Right; and
 - f. class of goods and/or services as well as description of types of goods and/or services.
- (3) The Application is signed by the Applicant or his/her Proxy.
- (4) The Application as referred to in section (1) is supplemented by Mark representation and receipt of payment of prescribed fee.
- (5) Fee of Application for Mark Registration is determined per class of goods and/or services.
- (6) In the event that the Mark as referred to in section (4) is in 3 (three) dimensional shape, its Mark representation is supplemented in the form of characteristics of that Mark.
- (7) In the event that the Mark as referred to in section (4) is in the form of sounds, its Mark representation supplemented is in musical notes and sound recording.
- (8) The Application as referred to in section (1) must be supplemented by a declaration letter of Mark ownership being applied for registration.
- (9) Further provisions regarding the Application fee as referred to in section (5) are regulated by a Government Regulation.

Article 5

- (1) In the event that an Application is filed by more than one Applicant which is collectively entitled for the pertinent Mark, all Applicants' names must be stated by selecting one address as Applicant's address.
- (2) The Application as referred to in section (1) is signed by one of the Applicants entitled to the Mark and supplemented a written authorization from the representing Applicant.

- (3) The Application as referred to in section (1) of which one or more Applicant is resident of another nationality and legal entity having its domicile overseas is filed through a Proxy.
- (4) In the event that the Application as referred to in section (1) is submitted through his/her Proxy, the power of attorney is signed by all parties entitled to the Mark.

Article 6

- (1) Application for more than 1 (one) class of goods and/or services may be filed in one Application.
- (2) The Application as referred to in section (1) must state types of goods and/or services incorporated in the class applied for.
- (3) Further provisions regarding classes of goods and/or services as referred to in section (1) are regulated by a Ministerial Regulation.

Article 7

- (1) Any Application and any subject matter related to Mark administration filed by an Applicant residing or having a permanent domicile outside the territory of the Unitary State of the Republic of Indonesia must be filed through a Proxy.
- (2) The Applicant as referred to in section (1) must state and choose an address of the Proxy as his/her legal domicile in Indonesia.

Article 8

Further provisions regarding Requirements and Procedures for Application as referred to in Article 4 to Article 6 are regulated by a Ministerial Regulation.

Part Two

Application for Registration of Mark by Priority Right

Article 9

An Application using Priority Right must be filed within a period

of not later than 6 (six) months as from the Filing Date of original application received by another country of which a Member State of Paris Convention for the Protection of Industrial Property or a member of the Agreement Establishing the World Trade Organization.

Article 10

- (1) In addition to fulfill the provisions as referred to in Article 4 to Article 7, an Application using Priority Right must be supported with a proof of receipt of application for Mark registration by which the Priority Right first emerged.
- (2) The proof as referred to in section (1) must be translated into the Indonesian language.
- (3) In the event that the provisions as referred to in section (1) and section (2) have not been satisfied within a period of 3 (three) months following the termination of rights for filing Application using Priority Right as referred to in Article 9, the Application will continue to be processed without using Priority Right.

Part Three

Mark Registration Formality Examination

Article 11

- (1) An Application must be filed in compliance with the formal requirements of Mark registration as referred to in Article 4, Article 5, Article 6, Article 7, Article 9, and Article 10.
- (2) In the event that the application is considered incomplete as referred to in Article 4, Article 5, Article 6, and/or Article 7, not later than 30 (thirty) Days as from the filing date, the Applicant is notified to remedy its incompleteness not later than 2 (two) months as from the Mailing Date of the notification on incompleteness.
- (3) In the event that the incompleteness is related to formalities as referred to in Article 10, a period to remedy its incompleteness is not later than 3 (three) months as from the expiry to file an application using Priority Right.

- (4) In the event that the formalities as referred to in section (2) and section (3) have not been satisfied due to natural disaster or force majeure, the Applicant or his/her Proxy may file a request in writing to extend the period to satisfy the requirements.

Article 12

In the event that the formalities are not satisfied within the period as referred to in Article 11 section (2), the Minister notifies the Applicant or his/her Proxy in writing that his/her Application is deemed to be withdrawn.

Part Four

Filing Date of Application

Article 13

- (1) Any Application that has satisfied the minimum requirements is given a Filing Date.
- (2) The minimum requirements as referred to in section (1) consist of:
 - a. completely filled out Application forms;
 - b. the Mark representation; and
 - b. proof of payment of fee

Part Five

Publication

Article 14

- (1) The Minister publishes the Applications in the Mark Gazette not later than 15 (fifteen) Days as from the Filing Date as referred to in Article 13.
- (2) The publication of Application in the Mark Gazette as referred to in section (1) lasts for 2 (two) months.
- (3) The Mark Gazette as referred to in section (2) is published periodically by the Minister in electronic and/or non-electronic media.

Article 15

The publication contains:

- a. name and address of Applicant, including the Proxy if an Application is filed by a Proxy;
- b. class and types of goods and/or services;
- c. Filing Date;
- d. name of the country and the Filing Date of the first application for registration where the Application is filed using Priority Rights; and
- e. Mark representation, including description on the colors and if the representation uses a foreign language and/or letters other than Latin and/or numerals which are not commonly used in the Indonesian language, is attached with the translation in the Indonesian language, Latin letters, or numerals which are commonly used in the Indonesian language, its phonetic in Latin.

Part Six

Opposition and Rebuttal

Article 16

- (1) Within a period of publication as referred to in Article 14, any party may file an opposition in writing to the Minister in respect of the Application being filed and is subject to fee.
- (2) The opposition as referred to in section (1) may be filed provided that there are adequate reasons supported by evidence that the Mark being applied cannot be registered or is refused under this Law.
- (2) In the event that there is an opposition as referred to in section (1), not later than 14 (fourteen) Days as from the date of receipt of opposition, a copy of the letter stating the opposition is delivered to the Applicant or his/her Proxy.

Article 17

- (1) Applicant or his/her Proxy is entitled to submit a rebuttal to the opposition as referred to in Article 16 to the Minister.

- (2) The rebuttal as referred to in section (1) is submitted in writing not later than 2 (two) months as from the Mailing Date of opposition to the Minister.

Part Seven

Correction and Withdrawal of Application for Mark Registration

Article 18

Correcting Application is only allowed on issues related to the writing of name and/or address of the Applicant or his/her Proxy.

Article 19

- (1) As long as a Mark certificate or notice of refusal has not been issued by the Minister, an Application may be withdrawn by the Applicant or his/her Proxy.
- (2) In the event that the withdrawal as referred to in section (1) is carried out by the Proxy, the withdrawal must be under a special power of attorney for the purpose of such withdrawal.

CHAPTER IV

MARK REGISTRATION

Part One

Non-Registrable and Refused Mark

Article 20

Mark cannot be registered if it:

- a. contradicts to the State ideology, laws and regulations, morality, religion, decency, or public order;
- b. is similar to, related to, or merely mentioning the goods and/or services being applied for registration;
- c. contains any element which may mislead the public in respect to its origin, quality, type, size, variety, intended use

of goods and/or services being applied for registration or constitute a name of protected plant variety for similar goods and/or services;

- d. contains description that does not correspond to quality, or efficacy of produced goods and/or services;
- e. is devoid of any distinctive character; and/or
- f. constitutes a generic name and/or public sign.

Article 21

- (1) An Application is refused if the Mark is substantively similar to or identical with:
 - a. a prior registered Mark of other parties or prior Mark application in respect of similar goods and/or services;
 - b. a well-known Mark of other parties for similar goods and/or services;
 - c. a well-known Mark of other parties for different goods and/or services complying with certain requirements;
or
 - d. a registered Geographical Indication.
- (2) An application is refused if the Mark:
 - a. constitutes or is similar to name or initial of a well-known individual, photograph, or name of legal entity owned by other person, unless under a written consent from its proprietary;
 - b. constitutes as duplication or is similar to name or initial, flag, symbol or State emblem, or both national and international agency, unless under a written consent from the authorities; or
 - c. constitutes as duplication or is similar to official signs or seal or stamp used by a country or Government agency, unless under a written consent from the authorities.
- (3) An Application is refused if it is submitted by an Applicant in bad faith.
- (4) Further provisions regarding the refused Mark Application as referred to in section (1) point a to point c are regulated by a Ministerial Regulation.

Article 22

In respect of any registered Mark which becomes a generic name, any Person may file for Mark Application by using that generic name with additional wording to the extent that it contains distinctive elements.

Part Two

Substantive Examination of Mark

Article 23

- (1) Substantive examination is an examination carried out by the Examiner to Application for registration of Mark.
- (2) Any opposition and/or rebuttal as referred to in Article 16 and Article 17 are considered during the substantive examination as referred to in section (1).
- (3) In the event that there is no opposition within a period of not later than 30 (thirty) Days as from the expiration date of publication, substantive examination is carried out to the Application.
- (4) In the event that there is opposition within a period of not later than 30 (thirty) Days as from the expiration date of time limit of submitting a defense as referred to in Article 17, substantive examination is carried out to the Application.
- (5) The substantive examination as referred to in section (3) and section (4) is completed within a period of not later than 150 (a hundred and fifty) Days.
- (6) In the event that it is deemed necessary to carry out substantive examination, experts in Mark examination who are not Examiners may be appointed.
- (7) Results of the substantive examination carried out by the experts in Mark examination who are not Examiners as referred to in section (6), may be regarded the same as the result of the substantive examination carried out by Examiner, with the approval from the Minister.
- (8) Further provisions regarding the expert in Mark examiners who are not Examiners as referred to in section (6) are regulated by a Ministerial Regulation.

Article 24

- (1) In the event that Examiner decides that the Application may be registered, the Minister will:
 - a. register the Mark;
 - b. notify the Applicant or his/her Proxy regarding the registration of his/her Mark;
 - c. issue the Mark certificate; and
 - d. publish the Mark registration in Mark Gazette, electronically or non-electronically.
- (2) In the event that Examiner decides that the Application cannot be registered or is refused, the Minister notifies the Application or his/her Proxy in writing with reasons.
- (3) Within a period of not later than 30 (thirty) Days as from the Mailing Date of the notification as referred to in section (2), the Applicant or his/her Proxy may submit a response in writing with reasons.
- (4) In the event that the Applicant or his/her Proxy does not submit any response as referred to in section (3), the Minister will refuse the Application.
- (5) In the event that the Applicant or his/her Proxy submits the response as referred to in section (3) and the Examiner decides that the response is acceptable, the Minister will exercise provisions as referred to in section (1).
- (6) In the event that the Applicant or his/her Proxy submits responses as referred to in section (3) and the Examiner decides to reject the response, the Minister will refuse the Application.
- (7) The refusal as referred to in section (4) and section (6) is notified in writing to the Applicant or his/her Proxy with reasons.
- (8) In the event that there is opposition as referred to in Article 16, the Minister will send a copy of notification for registration or refusal to the party filing for opposition.

Article 25

- (1) Mark Certificate is issued by the Minister as of the time the Mark is registered.

- (2) The Mark Certificate as referred to in section (1) states:
- a. full name and address of the owner of a registered Mark;
 - b. full name and address of the Proxy, where an Application using Proxy;
 - c. Filing Date;
 - d. name of the country and the Filing Date of the first application where the Application is filed using Priority Rights;
 - e. representation of the registered Mark, including description concerning various colors if the Mark uses color element, and if that Mark uses foreign language, letters others than Latin, and/or uncommon numerical in the Indonesian language with its translation in the Indonesian language, common letters and numerical in Latin and its phonetic transcription in Latin;
 - f. number and date of registration;
 - g. class and types of goods and/or services of registered Mark; and
 - h. period of validity of the Mark registration.
- (3) In the event that an issued Mark certificate is not collected by its owner or Proxy within a period of not later than 18 (eighteen) months as from the date of certificate issuance, that registered Mark will be deemed to be withdrawn and cancelled.

Article 26

Each party may submit a request for official excerpt of a registered Mark by paying a fee.

Part Three

Correction of Certificate

Article 27

- (1) A registered Mark owner or his/her Proxy may submit a request for correction in writing to the Minister of any error on the Mark certificate as referred to in Article 25 without being subject to fee.

- (2) In the event that the error is caused by the Applicant in filing Application for Mark registration, the correction of Mark certificate will be subject to fee.
- (3) Further provisions regarding the correction of certificate as referred to in section (1) and section (2) are regulated by a Ministerial Regulation.

Part Four

Appeal

Article 28

- (1) Appeal may be filed against a refused Application based on the grounds as referred to in Article 20 and/or Article 21.
- (2) Appeal is filed in writing by the Applicant or his/her Proxy to the Mark Appeal Commission with a copy to the Minister and is subject to fee.
- (3) The Appeal must be submitted by detailing any objection to and reason for application refusal.
- (4) The reason as referred to in section (3) is not considered as correction or revision of the refused Application.

Article 29

- (1) Appeal against a refused Application is filed within a period of not later than 90 (ninety) Days as from the Mailing Date of the notification for refusal.
- (2) In the event that the appeal as referred to in section (1) is not filed, the refusal will be deemed to be accepted by the Applicant.

Article 30

- (1) Decision of the Mark Appeal Commission is released not later than 3 (three) months as from the date of receipt of appeal.
- (2) In the event that the Mark Appeal Commission grants the appeal petition, the Minister will issue and grant the Mark certificate to the Applicant or his/her Proxy as referred to in Article 24.

- (3) In the event that the Mark Appeal Commission refuses the appeal, the petitioner or his/her Proxy may file a lawsuit against refusal for appeal to the Commercial Court within 3 (three) months as from the date of receipt of the decision for refusal.
- (4) In respect of the Decision from the Commercial Court as referred to in section (3), an appeal to the Supreme Court may be filed.

Article 31

In the event that a registered Mark violates the State ideology, laws and regulations, morality, religions, decency, and public order, the Mark Appeal Commission will give recommendation to the Minister for cancellation.

Article 32

Further provisions regarding procedures of appeal, examination and settlement of the appeal of the Mark Appeal Commission as referred to in Article 28 to Article 31 are regulated by a Government Regulation.

Part Five

Mark Appeal Commission

Article 33

- (1) The Mark Appeal Commission consists of:
 - a. a Chairman acting also as a member;
 - b. a Vice Chairman acting also as a member;
 - c. experts in Mark as members; and
 - d. senior Examiners as members.
- (2) Members of the Mark Appeal Commission as referred to in section (1) consist of a maximum of 30 (thirty) persons comprising 15 (fifteen) Senior Examiners and 15 (fifteen) experts in Mark who are appointed and discharged by the Minister for a tenure of 3 (three) years.
- (3) The Chairman and Vice Chairman are elected from and by the members of the Mark Appeal Commission.

- (4) To conduct examination against the appeal, the Mark Appeal Commission establishes a panel in odd numbers consisting of at least 3 (three) members, one of them being a Senior Examiner who is not the examiner in the previous substantive examination to the Application.

Article 34

Further provisions regarding the terms and procedures for appointing members, organizational structure, tasks, and functions of the Mark Appeal Commission as referred to in Article 33 are regulated by a Government Regulation.

Part Six

Duration of Protection and Renewal of Registered Mark

Article 35

- (1) A Registered Mark enjoys legal protection for a period of 10 (ten) years as of the Filing Date.
- (2) The period of protection as referred to in section (1) may be renewed for the same period.
- (3) The Application for renewal as referred to in section (2) is filed electronically or non-electronically in the Indonesian language by the Mark owner or his/her Proxy within 6 (six) months before the expiry of protection of the registered Mark and subject to fee.
- (4) The Application for renewal as referred to in section (2) may nevertheless be filed within 6 (six) months after the expiry of protection of registered Mark and subject to fee and fines as much as renewal fee.

Article 36

Application for renewal is admitted if the Applicant supplements a declaration letter stating that:

- a. the Mark in respect is being used on the goods or services as referred to in the Mark certificate; and
- b. the goods or services as referred to in point a are still produced and/or traded.

Article 37

- (1) Application for renewal is refused if failing to meet the provisions as referred to in Article 36.
- (2) The refusal of application for renewal as referred to in section (1) is notified in writing to the Mark owner or his/her Proxy with a reason.
- (3) Objection against refusal for renewal as referred to in section (2) may be appealed to the Mark Appeal Commission.
- (4) The provisions regarding appeal as referred to in Article 28 to Article 30 apply *mutatis mutandis* on the refusal of application for renewal.

Article 38

- (1) Renewal of registered Mark in the form of company logo or emblem or legal entity, does not require the procedures as referred to in Article 35 to Article 37, instead, it requires a payment of prescribed fee for Mark renewal within a period of 6 (six) months before the expiry of terms of protection of Mark registration, provided that no dispute arises against the Mark being renewed.
- (2) In the event that the dispute arises as referred to in section (1), stipulation on Mark renewal is issued after a final and binding decision is released.

Article 39

- (1) Renewal of terms of protection for a registered Mark is recorded and published in the Mark Gazette.
- (2) The renewal of terms of protection for a registered Mark as referred to in section (1) is notified in writing to the Mark owner or his/her Proxy.
- (3) Further provisions regarding the terms and procedures of application for renewal of terms of protection of a registered Mark as referred to in section (1) and section (2) are regulated by a Ministerial Regulation.

Article 40

- (1) Application for recording the change of name and/or address of the Mark owner is submitted to the Minister and subject to fee to be recorded and supplemented with a certified copy of the proof of change.
- (2) The change of name and/or address as referred to in section (1) may be carried out during the process of Mark Application.
- (3) The change of name and/or address of Mark owner as referred to in section (1) is published in the Mark Gazette.
- (4) Further provisions on the terms and procedures of application for recording the change of name and/or address as referred to in section (1) to section (3) are regulated in a Ministerial Regulation.

CHAPTER V

TRANSFER OF RIGHT AND LICENSING

Part One

Transfer of Right

Article 41

- (1) Right on a registered Mark may be transferred due to:
 - a. inheritance;
 - b. testament;
 - c. waqf;
 - d. grant;
 - e. agreement; or
 - f. another manner which is condoned by provisions of laws and regulations.
- (2) The transfer of Right on registered Mark by Mark Owner retaining more than one registered Marks which are substantially similar or identical for similar goods and/or services may only be carried out if all those registered Marks are transferred to the same party.
- (3) The transfer of Right on registered Mark as referred to in section (1) and section (2) is requested to be recorded to the Minister.

- (4) The Application of transfer of Right on Mark as referred to in section (3) is supplemented with supporting documents.
- (5) The transfer of Right on registered Mark which has been recorded as referred to in section (3) is published in the Mark Gazette.
- (6) The transfer of Right on registered Mark which is not recorded does not bring legal consequences to the third party.
- (7) The recording transfer of Right on Mark as referred to in section (1) is subject to fee.
- (8) The transfer of Right on Mark as referred to in section (1) may be carried out during the process of Mark Application.
- (9) Further provisions regarding terms and procedures of application for recording transfer of Right on Mark as referred to in section (1) to section (8) are regulated in a Ministerial Regulation.

Part Two

Licensing

Article 42

- (1) The registered Mark owner may grant a License to other party(s) to use the Mark for partial or entire types of goods and/or services.
- (2) The Licensing agreement comes into effect in all territories of the Unitary State of the Republic of Indonesia, unless agreed otherwise.
- (3) The Licensing agreement must be requested for recording to the Minister subject to fee.
- (4) The Licensing agreement as referred to in section (3) is recorded by the Minister and published in the Mark Gazette.
- (5) The Licensing agreement that is not recorded does not bring legal effect to the third party.
- (6) The Licensing agreement must not contain provisions which either directly or indirectly damage the Indonesian economy or limitation obstructing Indonesian capacity to acquire and develop technology.

Article 43

The registered Mark owner who has issued a License to another party as referred to in Article 42 section (1) may exclusively use or License the use of the Mark to a third party, unless agreed otherwise.

Article 44

The use of registered Mark in the territory of the Unitary State of the Republic of Indonesia by the Licensee is deemed the same as the use of that Mark in the territory of the Unitary State of the Republic of Indonesia by the Mark owner.

Article 45

Further provisions regarding the terms and procedures of recording the License as referred to in Article 42 section (3) are regulated in a Ministerial Regulation.

CHAPTER VI COLLECTIVE MARK

Article 46

- (1) Mark Application as Collective Mark may only be accepted if the Application clearly states that the Mark will be used as Collective Mark.
- (2) In addition to declaration on the use of Collective Mark as referred to in section (1) the Application must be supplemented with a copy of regulations on using the Mark as Collective Mark.
- (3) The regulation on using Collective Mark as referred to in section (2) at least contains provisions on:
 - a. characteristics, common traits, or quality of goods and/or services to be produced and traded;
 - b. controlling over the use of Collective Mark; and
 - c. sanction provided for the violation against the regulation on use of Collective Mark.
- (4) For the purpose of empowering Micro, Small, and Medium Enterprises, the Government may register Collective Mark

dedicated for developing the business and/or public services.

Article 47

The Application for Collective Mark registration is examined for formality requirements as referred to in Article 4 to Article 7 and Article 46.

Article 48

Substantive Examination to the Application for Collective Mark is carried out in accordance with the provisions as referred to in Article 23 and Article 24.

Article 49

- (1) The transfer of right on Collective Mark must be requested for recording to the Minister and subject to fee.
- (2) The recording for the transfer of right as referred to in section (1) is recorded and published in the Mark Gazette.

Article 50

Registered Collective Mark is used by the community of that Collective Mark and cannot be licensed to other parties.

Article 51

Further provisions regarding the Collective Mark as referred to in Article 46 to Article 50 are regulated in a Ministerial Regulation.

CHAPTER VII

APPLICATION FOR INTERNATIONAL REGISTRATION OF MARK

Article 52

- (1) The Application for international registration of Mark may be in the form of:
 - a. Application from Indonesia that is designated to the international bureau through the Minister; or
 - b. Application designated to Indonesia as one of designated countries is received by the Minister from the international bureau.

- (2) The Application for international registration of Mark as referred to in section (1) point a may only be applied by:
 - a. Applicant with Indonesian nationality;
 - b. Applicant having a domicile or lawfully reside in the territory of the Unitary State of the Republic of Indonesia; or
 - c. Applicant having real industrial or commercial business activities in the territory of the Unitary State of the Republic of Indonesia.
- (3) The Applicant as referred to in section (2) has filed an Application or has had Mark registration in Indonesia as basic Application for international registration of Mark.
- (4) Further provisions concerning international registration of Mark according to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks are regulated in a Government Regulation.

CHAPTER VIII GEOGRAPHICAL INDICATIONS

Article 53

- (1) Geographical Indications are protected upon being registered by the Minister.
- (2) In order to obtain protection as referred to in section (1), the Applicant for Geographical Indications is required to file Application to the Minister.
- (3) The Applicant as referred to in section (2) comprises:
 - a. any entity representing a society in certain geographical area producing goods and/or products which constitute:
 1. natural resources;
 2. handicraft; or
 3. industrial products.
 - b. provincial or regency/municipal government.
- (4) Provisions regarding publication, opposition, rebuttal to opposition, and withdrawal as referred to in Article 14 to Article 19 apply *mutatis mutandis* for Application for registration of Geographical Indications.

Article 54

- (1) Application filed by the Applicant residing or having a permanent domicile outside territorial of the Unitary State of the Republic of Indonesia must be filed through his/her Proxy in Indonesia.
- (2) The Application as referred to in section (1) may only be registered if the Geographical Indications has obtained recognition from the government of its country and/or registered in accordance to the prevailing laws and regulations of its country of origin.

Article 55

- (1) Geographical Indications may also be registered under an international agreement.
- (2) Further provisions regarding registration of Geographical Indications from overseas as referred to in Article 54 are regulated in a Ministerial Regulation.

CHAPTER IX

REGISTRATION OF GEOGRAPHICAL INDICATIONS

Part One

Non Registrable and Refused Geographical Indications

Article 56

- (1) Application of Geographical Indications cannot be registered if it:
 - a. contradicts to State ideology, laws and regulations, morality, religion, decency, and public order;
 - b. misleads or deceives the public concerning reputation, quality, characteristics, source of origin, manufacturing process, and/or its usage; and
 - c. constitutes a name that has been used in plant variety and used for similar plant variety, unless any additional term to indicate factors of similar geographical indication.
- (2) Application of Geographical Indications is refused if:

- a. the Document Describing Geographical Indications is not verified; and/or
- b. it has substantial similarity with a registered Geographical Indication.

Article 57

- (1) The refusal as referred to in Article 56 section (2) may file for an appeal to the Mark Appeal Commission.
- (2) Provisions regarding appeal as referred to in Article 28 to Article 32 apply *mutatis mutandis* for the appeal as referred to in section (1).

Part Two

Substantive Examination of Geographical Indications

Article 58

- (1) Substantive Examination of Geographical Indications is carried out by the Expert Team of Geographical Indications.
- (2) The provisions regarding substantive examination of Mark as referred to in Article 23 to Article 25 apply *mutatis mutandis* for substantive examination as referred to section (1).

Article 59

- (1) The Expert Team of Geographical Indications as referred to in Article 58 section (1) is an independent team conducting assessment on the Document Describing Geographical Indications and provide considerations/recommendations to the Minister concerning registration, amendment, cancellation, and/or controlling of national Geographical Indications.
- (2) The members of Expert Team of Geographical Indications as referred to in section (1) consist of up to 15 persons consisting of those experts owning expertise in the field of Geographical Indications from:
 - a. representative from the Minister;

- b. representative from the ministry handling matters in agriculture, industry, trades, and/or other relevant ministries;
 - c. representative from authorized agencies or institutions to supervise and/or assess quality of goods; and/or
 - d. other competent experts.
- (3) The members of Expert Team of Geographical Indications as referred to in section (2) are appointed and discharged by the Minister for a tenure of 5 (five) years.
- (4) A chairman elected from and by the members heads the Expert Team of Geographical Indications.
- (5) In performing its duties and functions as referred to in section (1), the Expert Team of Geographical Indications is assisted by a technical team for assessment of which membership is based on expertise.

Article 60

Further provisions regarding terms and procedures for Geographical Indication registration and appointing members, organizational structure, tasks and functions of the Expert Team of Geographical Indications as referred to in Article 56 to Article 59 are regulated by a Government Regulation.

Part Three

Terms of Protection and Cancellation of Geographical Indications

Article 61

- (1) Geographical Indications are protected as long as their reputation, quality, and characteristics serving the grounds for granting protection of Geographical Indications to certain goods remain exist.
- (2) Geographical Indications may be cancelled if it:
- a. does not comply with the provisions as referred to in section (1); and/or
 - b. violates the provisions as referred to in Article 56 section (1) point a.

Article 62

- (1) The Expert Team of Geographical Indications on its own initiative or report from the society conducts a research on reputation, quality, and characteristics of registered Geographical Indications and report it to the Minister.
- (2) In the event that the Minister accepts the report as referred to in section (1) from other than the Expert Team of Geographical Indications, the Minister forwards the report to the Expert Team of Geographical Indications not later than 30 (thirty) Days as from the date of receipt of that report.
- (3) Within a period of not later than 6 (six) months as from the date of receipt of that report as referred to in section (2) the Expert Team of Geographical Indications conducts examination and notifies the decisions as well as steps to be taken to the Minister.
- (4) In the event that the decision states that Geographical Indications comply with the provisions for cancellation as referred to in Article 61 section (2), not later than 30 (thirty) Days as from the date of receipt of that decision as referred to in section (3) the Minister exercises the cancellation.
- (5) In the event that the Minister stipulates the decision to cancel Geographical Indications, the Minister notifies the Applicant or his/her Proxy in writing and to all Users of Geographical Indications, or through their Proxies not later than 14 (fourteen) Days as from the date of receipt of that decision.
- (6) Within a period of not later than 30 (thirty) Days as from the decision to cancel Geographical Indications as referred to in section (5) the decision is published in the Geographical Indication Gazette.
- (7) The publication as referred to in section (6) must state the cancellation of Geographical Indications and termination of right to use Geographical Indications by any User of Geographical Indications.
- (8) Any opposition to the cancellation of Geographical Indication as referred to in section (5) may be filed to the Commercial Court not later than 3 (three) months as from the date of receipt of that decision to cancellation.

Part Four
Indication of Source

Article 63

Indication of source is protected without any compulsory registration or declaratively as a sign indicating the true origin of goods and/or services and use in a course of trade.

Article 64

Indication of source constitutes indications of origin of certain goods and/or services that are related indirectly to nature factor.

Article 65

Further provisions regarding the indication of source as referred to in Article 63 and Article 64 are regulated in a Ministerial Regulation.

CHAPTER X
INFRINGEMENT AND LAWSUIT

Part One
Infringement of Geographical Indications

Article 66

Infringement of Geographical Indications comprises:

- a. the use of Geographical Indications, either directly or indirectly, on goods and/or products that are not compliant with Document Describing Geographical Indications;
- b. the use of certain Geographical Indication logo, either directly or indirectly, on goods and/or products whether protected or not protected for the purposes of:
 1. indicating that certain goods and/or products are equal in terms of quality to the protected goods and/or products as Geographical Indications;
 2. generating profit from the usage; or
 3. generating profit from the reputation of the Geographical Indications.

- c. the use of Geographical Indications that potentially mislead the public concerning geographical origins of the goods;
- d. the use of Geographical Indications by non-Users of registered Geographical Indications;
- e. counterfeiting or abusing that may mislead in respect of the place of origin of goods and/or products or quality of the goods and/or products on its:
 - 1. wrapping or packaging;
 - 2. description on advertisement;
 - 3. description in the document concerning the goods and/or products; or
 - 4. misleading information in relation to the origin of certain packaging.
- f. other acts that are misleading general public regarding the truth of the origin of the goods and/or products.

Part Two

Lawsuit

Article 67

- (1) The infringement as referred to in Article 66 may be filed a lawsuit.
- (2) The lawsuit as referred to in section (1) may be carried out by:
 - a. any entitled producer to use Geographical Indications; and/or
 - b. any entity representing the public in certain geographical area and granted the authority.

Article 68

- (1) In the event that before or during application for registration of Geographical Indications, a sign is used in good faith by other party(s) who is not entitled to register in accordance with the provisions as referred to in Article 53 section (3), that party having good faith may continue to use the sign for a period of 2 (two) years as from the date of registration as Geographical Indications.

- (2) In the event that the sign as referred to in section (2) has been registered as Mark, the Minister cancels and deletes the Mark registration for all types of goods or partially after a period of 2 (two) years as from the date of registration of the sign as Geographical Indications.
- (3) The cancellation and deletion of Mark registration as referred to in section (2) are notified in writing to the Mark owner or his/her Proxy with a reason thereof.
- (4) The cancellation and deletion of Mark registration as referred to in section (2) are recorded and published in the Mark Gazette.
- (5) The cancellation and deletion of Mark registration as referred to in section (2) terminate legal protection on the Mark for entirely or partially similar kind of goods.
- (6) Objection against the cancellation and deletion as referred to in section (2) may be filed to the Commercial Court.
- (7) The decision of the Commercial Court as referred to in section (6) may be appealed to the Supreme Court.

Article 69

- (1) Owner of the Right on Geographical Indications may file a lawsuit against any unlawful user of Geographical Indications to claim for damages and terminate the use as well as destroy the label of Geographical Indications which is unlawfully used.
- (2) To prevent more losses on the party whose right is infringed, the judge may order the infringer to cease the manufacturing, reproduction, as well as order to destroy the label of Geographical Indications which is unlawfully used.

CHAPTER XI FOSTERING AND CONTROLLING OF GEOGRAPHICAL INDICATIONS

Part One Fostering

Article 70

- (1) Fostering on Geographical Indications is carried out by the central government and/or local government according to its authority.
- (2) The fostering as referred to in section (1) comprises:
 - a. preparation to comply with requirements of Application for Geographical Indication;
 - b. Application for registration of Geographical Indication;
 - c. utilization and commercialization of Geographical Indications;
 - d. dissemination and awareness on protection of Geographical Indications;
 - e. mapping and inventorying potential Geographical Indication products;
 - f. training and mentoring;
 - g. monitoring, evaluation, and fostering;
 - h. legal protection; and
 - i. facilitating development, processing, and marketing goods and/or products of Geographical Indications.

Part Two

Controlling

Article 71

- (1) Controlling of Geographical Indications is carried out by central and local government according to their respective authority.
- (2) The controlling as referred to in section (1) may also be carried out by the public.
- (3) The controlling as referred to in section (1) and section (2) is carried out to:
 - a. secure reputation, quality and characteristics to serve the grounds for issuing Geographical Indications; and
 - b. prevent unlawful use of Geographical Indications.
- (4) The result of controlling as referred to in section (2) are submitted to the right holder of Geographical Indication and/or the Minister.

- (5) Further provisions regarding the controlling as referred to in section (1) to section (4) are regulated in a Ministerial Regulation.

CHAPTER XII

REVOCATION AND INVALIDATION OF MARK REGISTRATION

Part One

Revocation

Article 72

- (1) Revocation of registered Mark may be requested by the Mark owner to the Minister.
- (2) The request for revocation as referred to in section (1) may be submitted by the Mark owner or his/her Proxy, either partial or entire kinds of goods and/or services.
- (3) In the event that the Mark as referred to in section (1) is engaged in a Licensing agreement, the revocation may only be carried out if it is approved in writing by the Licensee.
- (4) Exemption on the agreement as referred to in section (3) is only viable if in the licensing agreement, the Licensee clearly agree to disregard the existence of the agreement.
- (5) The revocation of registered Mark as referred to in section (1) is recorded and published in the Mark Gazette.
- (6) The revocation of registered Mark may be initiated by the Minister.
- (7) The revocation of registered Mark under the Minister's initiative may be carried out if:
 - a. having substantially similar to and/or identical for Geographical Indications;
 - b. in contrary to the State ideology, laws and regulations, morality, religion, decency, and public order, or
 - c. identical to folklore, intangible cultural heritage, or name or logo which constitutes to be passed down to generations.

- (8) The revocation as referred to in section (6) and section (7) may be carried out following the recommendation from the Mark Appeal Commission.
- (9) The Mark Appeal Commission provides the recommendation as referred to in section (8) upon request from the Minister.

Article 73

- (1) Mark owner objecting the decision to revoke a registered Mark under the Minister's initiative as referred to in Article 72 section (6) and section (7) may file a lawsuit to the Administrative Court.
- (2) Any party objecting to the decision of the Administrative Court as referred to in section (1) may appeal to the Supreme Court.

Article 74

- (1) Revocation of registered Mark may also be requested by a relevant third party in the form of a lawsuit to the Commercial Court on the ground that the given Mark has not been used for 3 (three) consecutive years in a course of trades of goods and/or services as of the date of registration or last use.
- (2) The reasons for non-use Mark as referred to section (1) are not valid in case of:
 - a. import embargo;
 - b. restriction related to permit for product distribution using relevant Mark or temporary decision from authorized party; or
 - b. other similar restrictions determined with a Government Regulation.
- (3) The revocation of registered Mark as referred to in section (1) is recorded and published in the Mark Gazette.

Article 75

The provisions as referred to in Article 74 apply *mutatis mutandis* on revocation of registered Collective Mark.

Part Two
Invalidation

Article 76

- (1) A lawsuit against invalidation of registered Mark may be filed by relevant party based on the reason as referred to in Article 20 and/or Article 21.
- (2) Unregistered Mark owner may file the lawsuit as referred to in section (1) after filing Application to the Minister.
- (3) The lawsuit for invalidation is filed to the Commercial Court against the registered Mark owner.

Article 77

- (1) The lawsuit for invalidation of Mark registration may only be filed within a period of 5 (five) years as from the date of Mark registration.
- (2) The lawsuit for invalidation may be filed in unlimited time if there is bad faith and/or the relevant Mark contravenes the State ideology, laws and regulations, morality, religions, decency, and public order.

Article 78

- (1) The decision of the Commercial Court on the lawsuit for invalidation as referred to in Article 76 section (3) may be appealed to the Supreme Court.
- (2) Clerk of court immediately delivers the decision to the dispute parties.

Article 79

Provisions regarding reasons of the lawsuit for invalidation as referred to in Article 76 apply *mutatis mutandis* on registered Collective Mark.

CHAPTER XIII

NETWORK SYSTEM OF DOCUMENTATION AND
INFORMATION ON MARKS AND GEOGRAPHICAL INDICATIONS

Article 80

The network system of documentation and information on Mark and Geographical Indications as regulated in this Law is carried out by the Minister.

Article 81

The network system of documentation and information on Mark and Geographical Indications as referred to in Article 80 is established through electronic and/or non-electronic media which can be accessed nationally and internationally.

CHAPTER XIV

FEES

Article 82

- (1) All fees in this Law are regulated by a Government Regulation.
- (2) All fees paid to state treasury cannot be withdrawn.
- (3) The Directorate General of Intellectual Property upon approval from the Minister and the Minister of Finance may use that revenues generating from the fees as referred to in section (1) in accordance with the provisions of laws and regulations.

CHAPTER XV

DISPUTE SETTLEMENT

Part One

Lawsuit against Mark Infringement

Article 83

- (1) The registered Mark owner and/or Mark Licensee may file the lawsuit against other parties who unlawfully use the Mark that is similar to or identical for similar kinds of goods and/or services in the form of:
 - a. claim for damages; and/or
 - b. ceasing all acts related to the use of Mark.

- (2) The lawsuit as referred to in section (1) may also be filed by the owner of well-known Mark based on court decision.
- (3) The lawsuit as referred to in section (1) is filed to the Commercial Court.

Article 84

- (1) In the process of examination and to prevent greater damages, the Mark owner and/or Licensee as the plaintiff may request to the judge to cease all acts of production, circulation, and/or trades of goods and/or services of that Mark unlawfully.
- (2) In the event that the defendant is sued to submit the infringed goods, the judge may order the submission of the goods or the value of the goods to be executed after a court decision which is final and binding is released.

Part Two

Procedures for Lawsuit to the Commercial Court

Article 85

- (1) The lawsuit as referred to in Article 30 section (3), Article 68, Article 74, and Article 76 is addressed to the Chief Justice of the Commercial Court in the jurisdiction where the defendant becomes the resident or domicile.
- (2) In the event that one of the parties resides outside the territory of the Unitary State of the Republic of Indonesia, the lawsuit is addressed to the Chief Justice of the Commercial Court of Central Jakarta.
- (3) Clerk of court registers the lawsuit on the date of which lawsuit is filed and the plaintiff is given written receipt signed by the clerk bearing the same date as the date of registration of the lawsuit.
- (4) The clerk of court submits the lawsuit to the Chief Justice of the Commercial Court within a period of not later than 2 (two) days as from the date of lawsuit registration.
- (5) Within a period of not later than 3 (three) days as from the date of lawsuit submitted as referred to in section (4), the Chief Justice of the Commercial Court reviews the lawsuit

and appoints a panel of judges to decide trial day.

- (6) Notice to the parties is delivered by bailiff not later than 7 (seven) days upon having registered the lawsuit.
- (7) Proceedings to the decision on the lawsuit as referred to in section (1) must be completed not later than 90 (ninety) days upon the panel handling the case has received the case and can be extended to not later than 30 (thirty) days upon approval from the Chief Justice of the Supreme Court.
- (8) The decision on the lawsuit as referred to in section (1) enclosing legal considerations completely as the grounds for the decision must be pronounced in the publicly open trial.
- (9) Rulings of the decision of the Commercial Court as referred to in section (8) must be delivered by the bailiff to the parties not later than 14 (fourteen) days after the decision on the lawsuit as referred to in section (1) is pronounced.

Article 86

The provisions regarding terms and procedures for Mark lawsuit as referred to in Article 85 apply *mutatis mutandis* on the terms and procedures for lawsuit on Geographical Indications.

Part Three

Appeal to the Supreme Court

Article 87

Decision of the Commercial Court as referred to in Article 85 section (8) is only subject to appeal to the Supreme Court.

Article 88

- (1) The appeal to the Supreme Court as referred to in Article 87 is filed not later than 14 (fourteen) days after the date of pronouncing the decision or notifying the decision to the parties by having it registered to the clerk of the Commercial Court that has ruled the decision.
- (2) The clerk registers the appeal to the Supreme Court on the date of pertinent petition submitted and gives a written receipt to the appellant signed by the clerk bearing the

same date as the date of receipt of registration.

- (3) The clerk must notify the appeal to the Supreme Court as referred to in section (2) to the defendant not later than 7 (seven) days after the registration of the appeal.
- (4) The plaintiff must have submitted the appeal memory to the Supreme Court to the clerk not later than 14 (fourteen) days as from the date of appeal to the Supreme Court registered as referred to in section (1).
- (5) The clerk must deliver the appeal memory to the Supreme Court to the defendant not later than 2 (two) days after the memory is received by the clerk.
- (6) The defendant may file a counter appeal memory to the Supreme Court not later than 14 (fourteen) days after the date of which the defendant received the appeal memory to the Supreme Court as referred to in section (5) and the clerk must deliver the counter appeal memory to the plaintiff not later than 7 (seven) days after having received the counter appeal memory by the clerk.
- (7) The clerk must deliver the dossiers of appeal to the Supreme Court not later than 7 (seven) days after the lapse of period as referred to in section (6).
- (8) The proceedings and decision on the appeal to the Supreme Court must be completed not later than 90 (ninety) days after date of which the appeal is received by the Panel.
- (9) The decision on the appeal to the Supreme Court as referred to in section (8), enclosing legal considerations completely as the grounds for the decision, must be pronounced in a publicly open court.
- (10) The clerk of the Supreme Court must deliver the rulings of the decision not later than 7 (seven) days after the date of which decision on the Appeal to the Supreme Court is pronounced.
- (11) The bailiff must deliver the rulings of the decision of appeal to the Supreme Court as referred to in section (10) to the plaintiff and defendant not later than 2 (two) days after the decision is received.

- (12) The judicial review to the decision on appeal to the Supreme Court as referred to in section (8) is executed in accordance with the provisions of laws and regulations.

Article 89

The decision on the Commercial Court which is final and binding is subject to the judicial review.

Article 90

Provisions regarding the filing of appeal to the Supreme Court as referred to in Article 88 and judicial review as referred to in Article 89 apply *mutatis mutandis* to the filing of Geographical Indication lawsuit.

Part Four

Procedures for Execution of Decision

Article 91

- (1) Invalidation based on court decision is carried out after the Minister receives official excerpt of the decision which is final and binding and published in the Mark Gazette.
- (2) Further provisions regarding the invalidation as referred to in section (1) and the revocation by the Minister as referred to in Article 72 to Article 75 are regulated in a Government Regulation.

Article 92

- (1) The invalidation or revocation of Mark registration by the Minister by deleting pertinent Mark with a note stating the reasons and date of the invalidation or revocation.
- (2) The invalidation or revocation of registration as referred to in section (1) is notified in writing to the Mark owner or his/her Proxy by stating the reason for invalidation or revocation and affirmation that as from the date of deletion, pertinent Mark certificate is no longer valid.

- (3) The deletion of registered Mark as referred to in section (1) is published in the Mark Gazette.

Part Five

Alternative Dispute Resolution

Article 93

In addition to the lawsuit settlement as referred to in Article 83 the parties may settle disputes through arbitration or alternative dispute resolution.

CHAPTER XVI

INTERLOCUTORY INJUNCTION

Article 94

On the ground of sufficient preliminary evidence, registered Mark owner whose rights have been violated may request a judge from the Commercial Court to release an interlocutory injunction on:

- a. preventing allegedly imported infringing goods entering the trade route;
- b. storing evidence relevant to that Mark infringement;
- c. securing and preventing the loss of evidence by infringer; and/or
- d. ceasing the act of infringement to prevent greater damages.

Article 95

Request for interlocutory injunction is addressed to the Commercial Court in writing under the jurisdiction where the Mark infringement taken place with the following requirements:

- a. attaching proof of Mark ownership;
- b. attaching preliminary evidence of Mark infringement;
- c. attaching clear description regarding the goods and/or documents that are requested, searched, collected and secured for the purpose of evidence; and
- d. submitting bail of cash and/or bank guarantee as much as the value of the goods charged on the interlocutory injunction.

Article 96

- (1) In the event that interlocutory injunction complies with the requirements as referred to in Article 95, the clerk of the Commercial Court registers the request for interlocutory injunction and must submit the request not later than 1x24 (one times twenty four) hours to the Chief Justice of the Commercial Court.
- (2) Within a period of not later than 2 (two) days as from the date of receipt of the request for interlocutory injunction as referred to in section (1), the Chief Justice of the Commercial Court appoints a judge of Commercial Court to review the request for interlocutory injunction.
- (3) Within a period of not later than 2 (two) days as from the date of appointment as referred to in section (2), the judge of the Commercial Court must decide in order to grant or refuse the request for interlocutory injunction.
- (4) In the event that the request for interlocutory injunction is accepted, the judge of the Commercial Court issues a letter of interlocutory injunction.
- (5) The letter of interlocutory injunction as referred to in section (4) is notified to the party affected by the interlocutory injunction not later than 1x24 (one times twenty four) hours.
- (6) In the event that the request for interlocutory injunction is refused, the judge of the Commercial Court notifies the refusal to the applicant of the interlocutory injunction with the reason.

Article 97

- (1) In the event that the Commercial Court issues the interlocutory injunction as referred to in Article 96 section (4), the Commercial Court subpoena the party charging the interlocutory injunction not later than 7 (seven) days as from the date of issuance of the interlocutory injunction for questioning.
- (2) The party affected by the interlocutory injunction may submit information and evidence in respect to the Mark not

later than 7 (seven) days as from the date of receipt of the subpoena as referred to in section (1).

- (3) Within a period of not later than 30 (thirty) days as from the date of issuance of notice of the interlocutory injunction, the judge of the Commercial Court must release the decision whether to affirm or annul the interlocutory injunction.
- (4) In the event that the interlocutory injunction is affirmed, hence:
 - a. the paid bail must be returned to the applicant of injunction;
 - b. the applicant of injunction may file a lawsuit for damages against the Mark infringement; and/or
 - c. the applicant of injunction may report the Mark infringement to the investigator officer of National Police of the Republic of Indonesia or civil servant investigator.
- (5) In the event that the interlocutory injunction is annulled, the bail that has been paid must immediately be given to the party affected by the interlocutory injunction as compensation for the release of the interlocutory injunction.

Article 98

Provisions regarding the interlocutory injunction as referred to in Article 94 to Article 97 apply *mutatis mutandis* on the Right on Geographical Indications.

CHAPTER XVII INVESTIGATION

Article 99

- (1) Aside from the investigator officers of State National Police of the Republic of Indonesia, specific civil servant investigator within the ministry administering government affairs in the legal field are authorized as investigators as referred to in the Law on criminal procedures to conduct investigation in Mark criminal acts.

- (2) The investigators as referred to in section (1) have authority to:
 - a. conduct examination on the accuracy of the report or information in relation to the criminal acts in the field of Mark;
 - b. conduct examination to any Person allegedly committing criminal acts in the field of Mark;
 - c. request information and evidence from any Person in relation to criminal acts in the field of Mark;
 - d. conduct examination on bookkeeping, records, and other documents in relation to criminal acts in the field of Mark;
 - e. search and conduct examination in places allegedly having evidence, bookkeeping, records, and other documents in relation to the criminal acts in the field of Mark;
 - f. confiscate infringing materials and goods as evidence in criminal acts in the field of Mark;
 - g. request for expert statement in the implementation of their duties to investigate the criminal acts in the field of Mark;
 - h. request assistance from relevant institutions to arrest, detain, set a wanted list, and prevent the perpetrator of the criminal act in the field of Mark; and
 - i. dismiss investigation if there is no sufficient evidence for conviction of the criminal acts in the field of Mark.
- (3) In conducting the investigation, the officers of civil servant investigator may request assistance from the investigator officers of the National Police of the Republic of Indonesia to facilitate the investigation.
- (4) The officers of civil servant investigator notify the commencement of investigation to the public prosecutor with a copy to the investigator officers of the National Police of the Republic of Indonesia.
- (5) The results of investigation that have been carried out by the officers of civil servant investigator are forwarded to the public prosecutor through the investigator officers of the National Police of the Republic of Indonesia.

CHAPTER XVIII
CRIMINAL PROVISIONS

Article 100

- (1) Every person unlawfully uses any Mark which is identical to registered Mark of other parties for similarly produced, and/or traded goods and/or services, shall be sentenced to imprisonment of up to 5 (five) years and/or fines up to Rp2,000,000,000.00 (two billion rupiahs).
- (2) Every person unlawfully uses any Mark which is substantially similar to registered Mark of another party for similarly produced and/or traded goods and/or services, shall be sentenced to imprisonment for up to 4 (four) years and/or fines up to Rp2,000,000,000.00 (two billion rupiahs).
- (3) Every person violating the provisions as referred to in section (1) and section (2), whose goods cause health impairment, environment distortion, and/or human deceases, shall be sentenced to an imprisonment up to (10) ten years and/or fines up to Rp5.000.000.000,00 (five billion rupiahs).

Article 101

- (1) Every person unlawfully uses any signs which are identical to Geographical Indications of other parties for similar goods and/or products or identical to registered goods and/or products, shall be sentenced to imprisonment up to 4 (four) years and/or up to Rp2.000.000.000,00 (two billion rupiahs).
- (2) Every Person unlawfully uses any sign which is substantially similar to Geographical Indications of another party for similar goods and/or products or identical with registered goods and/or products, shall be sentenced with imprisonment up to 4 (four) years and/or fines up to Rp2.000.000.000,00 (two billion rupiahs).

Article 102

Every Person who trades goods and/or services and/or product which is known or allegedly know that the goods and/or services and/or product constitute criminal acts as referred to in Article 100 and Article 101 shall be sentenced with imprisonment up to 1 (one) year or fines up to Rp200.000.000,00 (two hundred million rupiahs).

Article 103

The criminal acts as referred to in Article 100 to Article 102 constitute complaint delict.

CHAPTER XIX TRANSITIONAL PROVISIONS

Article 104

- (1) Any application filed under the Law Number 15 of 2001 on Mark is being processed when this Law comes into force, is continued in accordance to the pertinent Law.
- (2) Any Mark registered under the Law Number 15 of 2001 on Mark and is valid on the date of its promulgation of this Law, is declared effective in accordance with this Law for the remaining duration of registration.

Article 105

Mark dispute which is being processed in the court at the time this Law comes into force remains to be processed under the Law Number 15 of 2001 on Mark until receiving a decision which is final and binding.

CHAPTER XX CLOSING PROVISIONS

Article 106

At the time this Law comes into force, all laws and regulations constituting as implementation regulations of the Law Number 15 of 2001 on Mark (State Gazette of the Republic of Indonesia

of 2001 Number 110, Supplement to the State Gazette of the Republic of Indonesia Number 4131), remain in effect insofar not contrary to the provisions of this Law.

Article 107

At the time this Law comes into force, the Law Number 15 of 2001 on Mark (State Gazette of the Republic of Indonesia Number 110, Supplement to the State Gazette of the Republic of Indonesia Number 4131) is repealed and declared ineffective.

Article 108

Implementing regulation of this Law must be issued not later than 2 (two) years as of the date of its promulgation.

Article 109

This Law comes into effect on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 25 November 2016

PRESIDENT OF
THE REPUBLIC OF INDONESIA,

signed

JOKO WIDODO

Promulgated in Jakarta
on 25 November 2016

MINISTER OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA,

signed

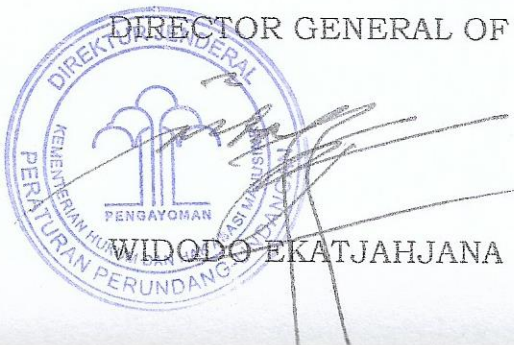
YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2016 NUMBER 252

Jakarta, 12 September 2017

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,



ELUCIDATION
OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 20 OF 2016
ON
MARKS AND GEOGRAPHICAL INDICATIONS

I. GENERAL

An impact of globalization in all fields of life, whether social, economy, or culture continues to promote the development of economy of the society. Besides, the development of information and technology and means of transportation have led to a rapid development in the trade sector of goods and services. Increase in the trade flows of goods and services would likely to continue in line with a rising growth of national economic. Having regards to such facts and trends, it is reasonable to demand regulations which are more sufficient in providing legal certainty and strong protection. Moreover, several countries have relied more on economy and trade activities of products resulted from human intellectual capacity. Due to such facts, Mark as a creation of human intellectual which closely related to economy and trade activities holds a significant role.

A course of trading goods and services crosses States' borders. Therefore, mechanism of international registration of Mark should be utilized to provide protection for national Mark internationally. System for international registration of Mark based on Madrid Protocol is regarded as a mean to facilitate national business actors to have their Marks registered abroad conveniently and affordably.

Above all, Indonesia's participation in ratifying the Convention of Establishing World Trade Organization including the Agreement on Trade

Related Aspects of Intellectual Property Rights/TRIPs as enacted by the Law Number 7 of 1994 on the Ratification of Agreement Establishing the World Trade Organization; requires Indonesia to comply with and implement the provisions of the international agreements. The ratification has urged Indonesia's participation to ratify the Paris Convention for the Protection of Industrial Property which has been ratified by the Presidential Decree Number 15 of 1997 and the Mark Law Treaty which is ratified by the Presidential Decree Number 17 of 1997. These international agreements entail obligation for Indonesia to correspond its prevailing Mark Law in accordance with the provisions under the ratified international agreements.

One of the development currently emerges in the field of Mark is the protection for new type of Mark that constitutes non-traditional Marks. In the Law herein, the scope of protected Mark comprises of sound Mark, three-dimensional Mark, hologram Mark, which constitute as non-traditional Marks.

Furthermore, some improvement to enhance services to Mark Applicants is established. In order to facilitate Applicants in registering their Marks, it is imperative to have revisions or amendments to streamline the process and procedures of Mark registration. Stipulation on minimum requirements for Application will make it easier to file for Application by filling out Application form, attaching Mark representation, and paying Application fee. By fulfilling these minimum requirements, a Mark Application will be given Date of Receipt or filing date.

Changes in the flow of Mark registration process in this Law is intended to expedite the process of Mark registration. Conducting publication prior to substantive examination aims to integrate the substantive examination with examination in case of opposition and/or rebuttal so that avoiding re-examination.

In respect to Application for renewal of Mark registration, Mark owners are given opportunity to renew their Mark registration up to 6 (six) months after the expiry of their Mark registration. This provision is intended to prevent Mark owners from depriving their rights due to lapsing their Mark registration renewal.

Moreover, to provide better legal protection for registered Mark owner against Mark infringement committed by other parties, severe criminal sanction is charged particularly one which threatens human's health,

environment, and induce death. Considering that issues on Mark are closely related to economic factor, herein these Law criminal sanctions are made heavier.

One of the subject matter enacted in this Law on Geographical Indications, considering that Geographical Indications constitute as national potential to serve as main commodity, both domestic and international trades. Therefore, this Law is stipulated and entitled Law on Marks and Geographical Indications.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Sufficiently clear.

Article 3

The term “registered” means after an Application being processed for formality examination, publication, and substantive examination, as well as obtaining approval from the Minister to issue a certificate.

Article 4

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “Mark representation” means sample of Mark or label attached on the Application for registration of Mark.

Section (5)

Sufficiently clear.

Section (6)

The term “characteristics of Mark” means drawings/paintings perceptible from front, sides, up, and down.

Section (7)

Sufficiently clear.

Section (8)

Sufficiently clear.

Section (9)

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Section (1)

Principally the Application may be filed for more than 1 (one) class of goods and/or services in accordance with the provisions on the Trademark Law Treaty which has been ratified by the Presidential Decree Number 17 of 1997 on Ratification of Trademark Law Treaty. It aims to facilitate Mark owner who intends to use his/her Mark for several goods and/or services.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 7

Section (1)

This provision also applies for Application with Priority Right.

Section (2)

Address of Applicant's Proxy is used as address of correspondence to the Applicant, whether letters related to Application or subpoena.

Article 8

Sufficiently clear.

Article 9

This provision is intended to accommodate the interest of some countries which are member countries of either Paris Convention or agreement establishing World Trade Organization.

The term “Paris Convention” means the Paris Convention for the Protection of Industrial Property of 1883 including any other amending or supplementing agreements comprising provisions as follow:

- a. the period to file application for registration of Mark using Priority Right is 6 (six) months;
- b. the period 6 (six) months is as from the filing date of the first application in the country of origin;
- c. the filing date of Application excludes the calculation of the period of 6 (six) months; and
- d. in the event that a period falls on the holiday, application for Mark registration to be protected, its period is extended to the beginning of the following work day.

Article 10

Section (1)

The term “proof of Priority Right” means copy of the first Application for registration of Mark filed in a member State of the Paris Convention or member of the World Trade Organization.

Section (2)

Translation is carried out by a sworn translator.

Section (3)

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Section (1)

Date of Receipt is known as filing date.

Date of Receipt may be the same as the date of the Application is filed if minimum requirement is fulfilled at the date that Application is filed. If all requirements have just been completed on other date after the Application is filed, the other date is stated as the Filing Date.

Section (2)

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Sufficiently clear.

Article 16

Section (1)

The term “any party” means parties other than Applicant or his/her Proxy.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 17

Sufficiently clear.

Article 18

Correction of written name and/or address such as Fahrul Arifin becomes Fachrul Arifin, Jl. Nuri No. 445 becomes Jl. Nuri 10 No. 445.

Article 19

Sufficiently clear.

Article 20

Point a

The term “contradicts to public order” means noncompliance with the existing rules in the public generally such as offending the public or group of people, courtesy or common ethics of the public, and public or group of people tranquility.

Point b

The Mark is related to or only state goods and/or services being applied for registration.

Point c

The term “contains misleading elements” such as Mark “No.1 Soy sauce, *Kecap No. 1*,” is not registrable because it is misleading the public in relation to the quality of the goods, Mark “*netto* 100 gram” is not registrable because it is misleading in relation to the weight/size of the goods.

Point d

The term “contains description that does not correspond to quality, or efficacy of produced goods and/or services” means mentioning description which does not correspond to the quality, benefit, efficacy, and/or risks of pertinent product. For example: medicine that can heal all diseases, a cigarette that is safe for health.

Point e

A sign which is considered non-distinctive if that sign is too simple such as line or full stop, or even too complicated that it is not clear.

Point f

The term “generic name” such as Mark “diner” for restaurant, Mark “coffee shop” for café. Whereas “generic symbol” such as “symbol of skull” for dangerous goods, symbol “poison” for chemical substances, “symbol of spoon and fork” for restaurant services.

Article 21

Section (1)

The term “substantially similar” means similarity which is generated from dominant element between Mark that creates impression of similarity, whether in shapes, composition, writing, or combinations of those elements, or similarity in phonetics, in the Mark.

Point a

The term “prior Mark application” means Application for Mark registration which has been approved to be registered.

Point b

Refusal for Application having substantially similarity or identical to well-known Mark of another party for similar goods and/or services is carried out by considering general

public knowledge in respect to the Mark in relevant business sector.

In addition, it is also considered the Mark reputation acquired because of strong and massive promotion, investments in several countries worldwide by the owner, and equipped with evidence for Mark registration in several countries.

If those are not enough, the Commercial Court may order an independent agency to conduct a survey to conclude whether the Mark is or is not well-known to serve as the ground for refusal.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Section (2)

Point a

The term “name of legal entity” means name of legal entity which is used as Mark and registered.

Point b

The term “national agency” includes public organization or social politic organization.

Point c

Sufficiently clear.

Section (3)

The term “Applicant in bad faith” means the Applicant who is allegedly having his/her Mark registered with intention to forge, imitate, or duplicate Mark of other party for the interest of his/her business which has created unfair business competition, deceived, or misled consumers.

For example Mark Application in writing, painting, logo, or color arrangement which is similar to the Mark of other parties or a publicly well-known Mark for years, is duplicated in whatsoever that is substantially similar to the well-known Mark. From the above example there has been a bad faith from the Applicant for at least it is assumed that there is a deliberate action to duplicate the well-known Mark.

Section (4)

Sufficiently clear.

Article 22

Sufficiently clear.

Article 23

Sufficiently clear.

Article 24

Sufficiently clear.

Article 25

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

The term “date of registration” means date on which a Mark is registered.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Section (1)

If the error in typing certificate does not constitute to be Applicant's error, certificate of correction is not subject to fee.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 28

Section (1)

Grounds for filing appeal are only limited to the reasons or considerations that are substantive.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Appeal must contain comprehensive reasons for objection to the refusal. This provision is necessary to prevent the possibility of using appeal as a tool to complete the deficiency in formalities of Application, considering that the opportunity to remedy the deficiency in formalities of Application has been given in earlier stage.

Article 29

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Experts to be elected as a member of the Mark Appeal Commission may be from various fields, both government and private.

Point d

The term “senior Examiner” means Examiners who has experienced in conducting examination of Application and has functional position of Mark Examiner-*Ahli Madya* in minimum.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The provisions to set the odd number of a panel are intended to anticipate a dissenting opinion, a decision may be taken by voting.

Article 34

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

Sufficiently clear.

Article 38

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Sufficiently clear.

Article 41

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

The term “another manner which is condoned by provisions of laws and regulations” means provided that it does not contravene to the prevailing laws and regulations, such as changes in respect of Mark ownership due to liquidation of a legal entity, reconstruction, merger, or acquisition.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Pertinent documents are namely certificate of Mark and other evidences supporting the ownership.

Section (5)

Sufficiently clear.

Section (6)

The determination that legal consequences take into effect after the transfer of Right on Mark is recorded, it is intended to accommodate supervision and create legal certainty.

Section (7)

Sufficiently clear.

Section (8)

Pending Mark application may also be requested for recording of transferring right.

Section (9)

Sufficiently clear.

Article 42

Section (1)

Sufficiently clear.

Section (2)

The term “unless agreed otherwise” means licensing agreement which enters into force not only within the territory of the Unitary State of the Republic of Indonesia or only part of the territory of the Unitary State of the Republic of Indonesia.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Article 43

Sufficiently clear.

Article 44

In the event that the owner of registered Mark does not use the Mark exclusively in the course of trading goods and/or services in the territory of the Unitary State of the Republic of Indonesia, the use of that Mark by the Licensee is the same as the use of that Mark by the owner of the registered Mark.

It concerns with the provisions regarding the possibility of invalidation a registered Mark which is not used in the course of trading goods and/or services within 3 (three) consecutive years.

Article 45

Sufficiently clear.

Article 46

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Point a

The provision of among others nature, common traits, or quality of goods and/or services as well as the supervision, contains interpretation of the existence of prescribed requirements to be followed by the parties which also use the Collective Mark.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 47

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Sufficiently clear.

Article 50

The reason justifying that Collective Mark cannot be licensing is because of its nature of collective ownership and if any other party wishes to use given Mark, it is not necessary to obtain a License from the owner of Collective Mark, he/she needs only conjoin.

Article 51

Sufficiently clear.

Article 52

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The term “real industrial or commercial business activities within the territory of the Unitary State of the Republic of Indonesia” means a real, concrete, and effective business activity existing in the territory of the Unitary State of the Republic of Indonesia.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 53

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Point a

An entity representing the society in certain geographic area among others producer association, cooperation, and Society for Geographical Indication Protection, *masyarakat perlindungan indikasi geografis* (MPIG).

Number 1

The term “natural resources” means any substances come from the nature which can be used to satisfy human needs comprising not only biotic components such as animal,

plants, and microorganism but also abiotic components such as oil, natural gas, various types of metal, water and soil.

Number 2

Sufficiently clear.

Number 3

The term “industrial products” means results of human activities to transform raw materials into product such as Woven *Gringsing* (*Tunun Gringsing*), Woven *Sikka* (*Tenun Sikka*).

Point b

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.

Article 56

Sufficiently clear.

Article 57

Sufficiently clear.

Article 58

Sufficiently clear.

Article 59

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

The term “other competent experts” means academicians or practitioners having expertise in their fields related to Geographical Indications.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 60

Sufficiently clear.

Article 61

Sufficiently clear.

Article 62

Sufficiently clear.

Article 63

Sufficiently clear.

Article 64

The indication of source is not the same as Geographical Indications since the indication of source merely identifies the origin where the goods produced and not related to natural factor.

Example a camera with Mark Nikon from Japan but also manufactured by its factory in China through Licensing and on its camera produced in China labelled Made in China. That label Made in China is a source of origin. Rights of source of origin emerges in line with the object manifestation and not by registration, it is different with Geographical Indication protection which is constitutive and mandatory registration.

Article 65

Sufficiently clear.

Article 66

Sufficiently clear.

Article 67

Sufficiently clear.

Article 68

Sufficiently clear.

Article 69

Sufficiently clear.

Article 70

Section (1)

The term “central government” means ministry and/or institution that holds duties and responsibilities in legal, domestic affairs, foreign affairs, agriculture, environment, industry, trades, creative economy, tourism, research and technology, fishery, and other relevant fields.

Section (2)

Sufficiently clear.

Article 71

Sufficiently clear.

Article 72

Sufficiently clear.

Article 73

Sufficiently clear.

Article 74

Sufficiently clear.

Article 75

Sufficiently clear.

Article 76

Section (1)

The term “relevant party” among others registered Mark owners, public prosecutors, foundation/institutions in the field of consumers, and religious counsel/institution.

Section (2)

The term “unregistered Mark owner” means Mark owner having good faith but is not registered or the owner of well-known Mark but that Mark is not registered.

Section (3)

Sufficiently clear.

Article 77

Sufficiently clear.

Article 78

Sufficiently clear.

Article 79

Sufficiently clear.

Article 80

Sufficiently clear.

Article 81

Sufficiently clear.

Article 82

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Under this Law the it is governed the provisions regarding the possibility to use part of Non-tax State Revenue, *Penerimaan Negara Bukan Pajak* (PNBP), by the Directorate General of

Intellectual Property which is generated from all prescribed fees in respect to Mark and Geographical Indications.

The term “use the revenues” means spending PNBP based on prevailing system and mechanism. In this case all revenues generated are deposited directly to the state treasury as PNBP.

Article 83

Section (1)

Sufficiently clear.

Section (2)

An entitlement to file a civil lawsuit against unfair act committed by other party is intended to provide legal protection to well-known Mark owner even though it has not been registered.

Section (3)

Sufficiently clear.

Article 84

Sufficiently clear.

Article 85

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “days” means calendar day.

Section (5)

The term “days” means calendar day.

Section (6)

The term “days” means calendar day.

Section (7)

The term “days” means calendar day.

Section (8)

Sufficiently clear.

Section (9)

The term “days” means calendar day.

Article 86

Sufficiently clear.

Article 87

Sufficiently clear.

Article 88

Section (1)

The term “days” means calendar day.

Section (2)

Sufficiently clear.

Section (3)

The term “days” means calendar day.

Section (4)

The term “days” means calendar day.

Section (5)

The term “days” means calendar day.

Section (6)

The term “days” means calendar day.

Section (7)

The term “dossiers of appeal to the Supreme Court” means a request for appeal to the Supreme Court, appeal memory to, and/or counter appeal memory to the Supreme Court, as well as other documents.

The term “days” means calendar day.

Section (8)

The term “days” means calendar day.

Section (9)

Sufficiently clear.

Section (10)

The term “days” means calendar day.

Section (11)

The term “days” means calendar day.

Section (12)

Sufficiently clear.

Article 89

Sufficiently clear.

Article 90

Sufficiently clear.

Article 91

Sufficiently clear.

Article 92

Sufficiently clear.

Article 93

The term “alternative dispute resolution” namely negotiation, mediation, conciliation, and other method chosen by the parties.

Article 94

Point a

The term “goods” includes imported goods.

Point b

Sufficiently clear.

Point c

It is intended to prevent the infringer to dispose the evidence.

Point d

Sufficiently clear.

Article 95

Point a

The term “proof of Mark ownership” means Mark certificate.

Point b

Sufficiently clear.

Point c

The information is description on types of goods and/or services alleged as a result of Mark infringement.

Point d

Sufficiently clear.

Article 96

Sufficiently clear.

Article 97

Sufficiently clear.

Article 98

Sufficiently clear.

Article 99

Sufficiently clear.

Article 100

Sufficiently clear.

Article 101

Sufficiently clear.

Article 102

Sufficiently clear.

Article 103

Sufficiently clear.

Article 104

Sufficiently clear.

Article 105

Sufficiently clear.

Article 106

Sufficiently clear.

Article 107

Sufficiently clear.

Article 108

Sufficiently clear.

Article 109

Sufficiently clear.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 5953