INDONESIA-COUNTRY REPORT

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Introduction

Nowadays, in most developing countries, including Indonesia, the government and especially the universities are trying to develop a good intellectual regime and promoting public awareness of Intellectual Property Rights (IPR).

The main objective of this efforts is to respond to the poor public awareness of the IPR in the society. In Indonesia, those efforts are mostly implemented through formal and informal education and training as they turned out to be the best method and have been positively accepted by the society in comparison with other used methods such as strong enforcement measures which is also effective as shock therapy.

Nevertheless, we come upon a new fact of the danger of it being applied too frequently, as it may be counter productive and that negative public sentiment may develop.

Indonesia, and other ASEAN members states, understand and are conscious about the necessity for each member state to adopt appropriate measure to prevent the abuse of IPR holders.

The development of the IPR national legal system in Indonesia began in the mid 1980s. It started with an initiative of the government to enact the Copyright Law of 1982. Due to various problems faced in the implementation of the said act and other IPR issues, in 1986, the President of Indonesia established a special Commission on IPR (widely known as *The Presidential Commission on IPR).*

Besides of handling the foresaid issues, this commission was also concerned with other measures of enforcement such as integrating and coordinating actions between the prosecutor and other law enforcement agencies against piracy and counterfeiting actions. Together with some major universities in Indonesia, the commission has also taken initiative to organize several seminars, research works, training and work-shops and other measures that are relevant with the education of the new generation (especially lecturers and students) for having more awareness of IP Rights.

It seems that through this commission, the role of the government in developing the national system of IPR is quite significant and its efforts are considered to be systematic, structured and concrete.

Although, it should also be recognized that to develop and expand a national IPR system is not without handicaps or constraints. There has been a number of obstacles that was confronted. It was mainly due to the existing of opinions from part of the society and from some scholars in universities who strongly object individualistic values of the IPR to be accepted in Indonesia. Their reasoning was that accepting of IPR in the national legal system means giving legitimation to individualism and monopolistic culture. In their opinion, such a culture is deemed not matching with the national principle of cooperativeness, which has been deeply rooted in the public life and behaviour of the Indonesian society, besides that it has long been an attitude of the Indonesian society.

To respond to this opinion, a compromise was given by the government which reflects in the national policies and its legislation.

The new IPR laws will fully respect a balance of interest, which means between rights and obligations, based upon equity, fair competition and fair access. There are four principles in the Indonesian IPR system widely accepted among university scholars. Those are:

(1) The principle of natural justice,

(2) The economic argument principle,

(3) The cultural argument principle, and

(4) The social argument principle.

All of these principles are clearly designed and reflected among others in the mechanism of compulsory licensing (for example under the Copyright Law.)

Through this mechanism, the so-called social *junction* or *the social argument principle*, copyright has a clear and respectful implementation.

With continuous campaign and a good LP regime set up by the government as well as intensive teaching, training and research involving lecturers and students in the universities, the promoting and the building-up of public awareness of IP rights is gradually progressing, although it is not as fast as our initial plan.

The government and most major universities in Indonesia, through its education program, are continuing its policy in establishing and promoting public awareness of IPR with its necessary limited instruments. This is one step to prevent a likely *economic chaos which* the country is facing right now.

The Teaching and Training of IPR

Indonesian IPR regulations and principles are mentioned and included in various existing laws such as Government regulations, international conventions or treaties as well as in some ministerial decisions.

In the Indonesian educational curriculum, IPR has been one of the important subjects taught in the Faculties of Law of some major universities, i.e. Universitas Indonesia in Jakarta, Universitas Airlangga in Surabaya and Universitas Padjadjaran in Bandung.

A syllabus or an outline used for the IPR curriculum is featured, for example:

- As a preface and introduction to IPR subject matter—taught within one semester which covers some background of IPR concept, its role and function in the society and state—particularly in the trade, commerce and legal system.

- In the trade/business economics, it expounds the role and interrelation of IPR with the national and international industrial and trade practices. It also emphasizes on the IPR principles in TRIPs Agreement and WTO, including Dispute Settlement.

- In the field of Law, IPR illustrate the principles which based the government legislated regulations, and the method of its implementation besides the IPR practises in the international fields which nowadays include Conventions/Treaties and Agreements administered by WIPO.

To give an effective understanding of IPR system to the students, it requires an introductory educational curriculum consisting of several subject matters as follows:

Definitions:

Intellectual Property, Industrial Property, Patent, Copyright, Marks, Plant Varieties, Trade Secrets, Industrial Design, Integrated Circuits.

Patent:

Patent system, Territorial Principles, Inventions that can not be patented, Requisities to be given a patent, Rights and Duties of the Patent holder, Right to write the name of the inventor in the Patent Certificate, Procedure in acquiring a Patent.

Copyright:

Historical background, Copyright characteristic, Inventions by the unknown inventors, Copyright limitations, Protection duration and extension.

Marks:

Trademark, Service-mark, Collective-mark, Trade names, Certification-mark, Function of marks, Mark-usage, Famous-mark, Mark registration request procedure, Extension on the length of time of protection.

An Elementary Intellectual Property Course held recently was *The Indonesia Australia Specialised Training Program on IPR conducted by The Asian Law Group Pty Ltd.*

This three weeks of training was a component of the Good Governance Training offered within Phase two of an Australian government to Indonesian government training initiative, aiming to work with middle level managers and professional staff within the Indonesian public sector including administrators, educators and other mid-career Indonesian officials.

The course, which offered some combined teaching methodologies such as self-assessments and action plans, have left participants with both an awareness of their intellectual property knowledge and skills development and a concrete workplan for how their workplace can enhance IP-related initiatives.

The course programme consisted of 10 units, namely:

- Introduction to Law: Indonesia
- Introduction to IP Law
- Patents
- Copyright
- Trademarks
- Circuit Layouts, Designs and Plant Varieties
- Trade Secrets

- Unfair Competition
- International Cooperation
- Remedies and Enforcement.

Another Non-Govermental Organization in Indonesia, which is very active in promoting and educating IPR to the society, is *The Indonesian Intellectual Property Rights (IIPS)* or *Masyarakat HAKI Indonesia* established in November 1996 with headquarter in Jakarta by a group of prestigious IPR Indonesian professionals.

Its activities include the initiation and execution of studies with a view to improve domestic intellectual property legislation or policy as well as to provide networking relationships among its members and the governmental and non-governmental organizations on a national, regional or international level that have a common interest in the development of intellectual property issues.

IIPS has been organizing quite a few seminars, workshops and open-discussions in many places in Indonesia not only to introduce the IPR principles to the society but also to form a communication, information and cooperation links among its members and those interested in this issue.

In the past five years, IIPS has set-up some branches or affiliates in other cities including *Bandung* and *Surakarta.* These chapters have attracted many society members—in particular artists, designers, even farmers in some isolated areas—to get actively involved in the IPR exercises, meaning through this organization the informal education of IPR has been progressing to the right direction.

Conclusion

The Government and the Faculties of Law of the major universities in Indonesia have a significant awesome attitude towards the development and promotion of IPR legal system in Indonesia, as seen in the various intensive teaching, training activities and extensive research work implemented during the last decade.

Our aim is to have a coherent and broad-minded society—*particularly the IP holders, lecturers and university students*—who, hopefully, will be aware of their rights to live from their creative works *(as we know that most of the IP rights clearly guarantee the rights of IP holders to benefit from their creativity).*

We believe that this will educate the Indonesian people to dignify, cite and recognize the value of one's creative works.

And last but not least, it means that the new generation of Indonesia will have more respect to the value of one's creativity, and therefore they will progress with a more clear-sighted business practises, have better jobs and quality life.

Let us hope, or in Bahasa Indonesia we say *"SEMOGA."*