THE PRESENT STATUS OF TEACHING AND RESEARCH IN INTELLECTUAL PROPERTY LAW IN INDONESIA

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LEGAL EDUCATION: A BRIEF HISTORICAL PERSPECTIVE

In 1909, the first law school (Rechtschool) was established in Indonesia by the Dutch colonial government, but this was only intended to be a vocational secondary school. To pursue more advanced study in law, the place was still the Netherlands. However, in 1924 an institution of higher education in law, called the Faculty of Law (Faculteit der Rechtsgeleerdheid, better known as Rechtshoogeschool) was established which later, after the Second World War (1946), was reopened under the name of "The Faculty of Law and Social Sciences (Faculteit der Rechtsgeleerdheid en Sociale Wetenschappen) as a part of the "Provisionary University of Indonesia."

When the Dutch recognized the independence of the Republic of Indonesia (1949), the (Dutch) University of Indonesia was taken over by Indonesian scholars and became Universitas Indonesia. The Faculty of Law and Social Sciences was renamed Fakultas Hukum dan Masyarakat (until 1968) and later Fakultas Hukum (Faculty of Law). The curriculum, which until 1968 remained basically the same as it was in 1941 (before the war), was gradually modified in the following years: 1968, 1972, 1979 and lastly in 1982 and 1983.

At present there are 26 state faculties of law, nearly in every province of the republic, and numerous private faculties of law. Their curricula are patterned to the two oldest faculties of law, namely Universitas Indonesia in Jakarta (which is a continuation of the Dutch law school of 1924) and Universitas Gajah Mada in Yogyakarta, Central Java (established in 1949). In addition, there are five other leading state law faculties which also set the tone through their curriculum on legal education and research throughout Indonesia. They are the faculties of law at the following state universities: Universitas Padjadjaran in Bandung, West Java (established in 1961), Universitas Airlangga in Surabaya, East Java (1961), Universitas Hasanuddin in Ujungpandang, South Sulawesi (1962), Universitas Sumatera Utara in Medan, North Sumatera (1964), and Universitas Diponegoro in Semarang, Central Java (1966).

THE TEACHING OF INTELLECTUAL PROPERTY LAW

Following the Dutch pattern in legal education, intellectual property law is considered in the law curriculum as part of the commercial law course. Currently, most faculties of law have made two courses in commercial law compulsory, i.e. Commercial Law I and Commercial Law II. Intellectual property law is part of the Commercial Law I course (at Universitas Indonesia this course has been renamed Principles of Commercial Law, since 1982).

Although most of the law books used by law students are now available in Indonesian, many of the law teachers at the leading state faculties of law still use Dutch law textbooks as reference for their teaching material. One of the standard law textbooks on Commercial Law still used in Indonesia is

Mr. T.J. Dorhout Mees, Kort Begrip Van Het Nederlands Handlesrecht (Short Comprehension of the Dutch Commercial Law), De Erven F. Bohn, Haarlem, 1964 (± 746 pp.). In this book there is a special chapter (± 165 pp) on "Industrial Property and Competition Law", which is devided a.o. in the following sub-chapters: (1) The law on patent, (2) The law on trademarks, (3) Models and drawings, (4) Trade names, and (5) Unfair competition (a current book selectively used in Indonesia is from Mr. E.A. van Nieuwenhoven Helbach (Gouda Quint, Arnhem, 1947) who has written a three volume law book on Dutch commercial law, of which one volume is especially devoted to "Industrial Property and Competition Law", (± 274 pp).

Indonesia law books are treating the subject in a very condensed (superficial) form. As the Netherland-Indies Patent Law (Octrooiwet of 1910) was not continued in Indonesia after independence, the subject is mostly devoted to trademarks (Law on Trademarks of the year 1961) with a recent focus on copyrights (Law on Copyrights of the year 1982). Universitas Indonesia has currently been trying to revive and give more in-depth analysis on the subject, by introducing, in 1986, in the curriculum of the Faculty of Law: "Intellectual Property Law" (Hak Milik Intelektual - HPE 30906) and "Transfer of Technology" (Alih Teknologi - HPE 30908) as two separate optional courses for the students. It should also be noted that by the promulgation of the Industrial Law in 1984 the basic legal structure for the protection of industrial designs in Indonesia has been provided. Still being drafted are the subsidiary legislation for implementing the law.

RESEARCH ON INTELLECTUAL PROPERTY LAW

The present nature of intellectual property law teaching in Indonesia, being part of the teaching on commercial law and particularly of the superficial treatment of the subject in Indonesian commercial law textbooks, does not give a great stimulus for research. Whatever research exists on this subject tends to be sporadic and ad hoc by nature. This unsystematic trend is further compounded by the present situation that there is no real support for research on the subject, due to a lack of financial back-up.

Some of the research that has been conducted by the academic community were sponsored by the National Law Development Centre (BPHN) of the Department of Justice and by the Agency for the Development and Application of Technology (BPPT). Other research projects were conducted under the auspices of the Bureau of Legal Affairs of the Department of Industry. Most of the reports have not been published and were only used as discussion material at seminars and symposiums. The most recent seminar was held in Jakarta by the Faculty of Law of Universitas Tarumanegara (a private university) on the 23rd and 24th of January 1987. National seminars (meaning participation by almost all of the state law faculties in Indonesia and government departments in Jakarta) on the subject were a.o. on "Copyright" in 1975, on "Patent" in 1976 and on "The Legal Aspects of Transfer of Technology" in 1978.

One of the most significant constraints in doing research in Indonesia is the absence of a comprehensive library on intellectual property law. This library should contain a.o. foreign texts and other literature on the subject and also a collection of the most important WIPO documents. Universitas Indonesia, through its Legal Documentation Centre (Pusat Dokumentasi Hukum), has started to build such a collection in 1975 with the assistance of

Professor R. Buxbaum of the University of California, Berkeley, but has had to stop its efforts due to lack of financial support. The initial collection was at that time designed as training material for a comprehensive course on "industrial property and the transfer of technology" targeted at administrators. Besides selected articles from periodicals in English language, the small collection also contains selected basic documents from WIPO, UNCTAD, UN, AIPPA, BIRPI and UNIDO.

For Indonesia, lack of access to text and literature is further compounded by the language barrier. It is therefore of utmost importance that text and literature in the Indonesian language is made available. This implies that Indonesian academics should be stimulated and encouraged to work towards producing reliable and informative texts in the Indonesian language. Other methods are to have texts translated from Dutch to English into Indonesian and to improve the Indonesian academics' proficiency in English (or Dutch, as the case may be).

CONCLUSION

There has been a keen interest in intellectual property law among the academics and government officials. Also, the recent interest and support of the Indonesian government has been particularly encouraging. This will, at its time, influence the teaching and research on intellectual property law in Indonesia. However, much remains to be done.

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