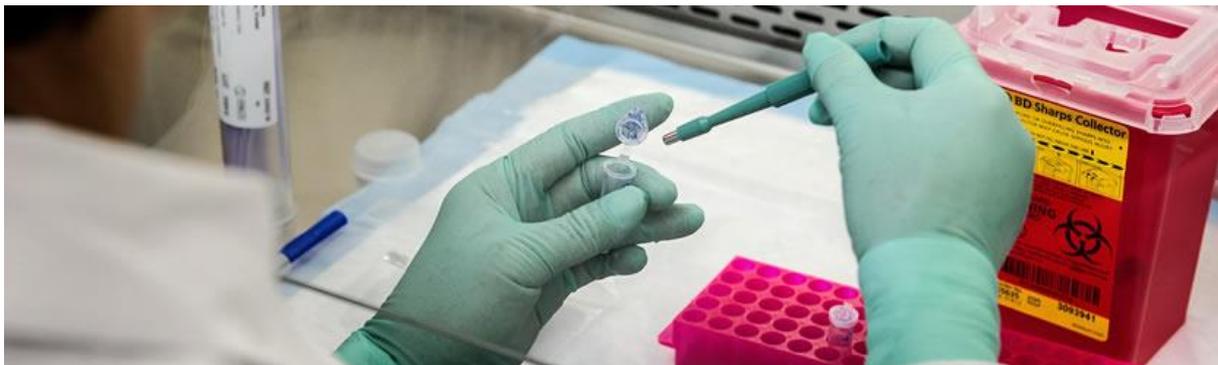


Government Cuts Red Tape to Pave the Way for Covid-19 Vaccine



As seen from the many regulations issued since the declaration of COVID-19 as a public health emergency, the Indonesian government has been rolling out various measures to protect the country and its citizens. Most recently, the government issued Presidential Regulation No. 77 of 2020 on the Procedures to Implement Patents by the Government (“**New Regulation**”). This regulation is the implementing regulation of Law No. 13 of 2016 on Patents.

In the past, the procedure to implement patents by the government was governed under Government Regulation No. 27 of 2004 as mandated by the old patent law (Law No. 14 of 2001 on Patent). Based on such regulation, the government then issued Presidential Regulation No. 76 of 2012 on the Implementation of Patent by the Government for Antiviral and Anti-Retroviral Medicines, which was enacted to meet the urgent demand and need for antiviral and anti-retroviral medicines to treat HIV/AIDS and Hepatitis B.

In light of the current pandemic, the New Regulation is certainly a positive sign that the Indonesian government is taking active steps to eliminate bureaucratic red tapes to ensure that when a COVID-19 vaccine becomes available, the government can immediately implement the patent.

Under the New Regulation, the government can implement a patent if the patent relates to Indonesia’s national defence and security or in the event of an urgent public needs, which includes the needs for pharmaceutical or biotechnological products that may potentially be expensive or necessary to treat diseases that can adversely affect the general rate of mortality. If the government cannot implement the patent, it can appoint a third party to implement the patent provided that such third party owns the necessary facilities and is able to implement the relevant patent, will not assign or transfer the implementation of the relevant patent to any other party, and has an adequate production, distribution and monitoring procedure and method.

The New Regulation states that a minister or a head of a governmental agency/ministry must apply for the patent implementation to the Minister of Law and Human Rights (“**MOLHR**”). Such request must state the object of the patent, the details of the invention to be covered by the patent, and the needs for such patent in the country. The MOLHR will then examine whether the request and the patent itself meet the requirements. Upon approval of the request, the MOLHR will form a team to determine the amount of compensation that will be paid to the patent owner, which must be fair and reasonable.

Despite the implementation of the patent by the government or a party appointed by it, the patent owner will still hold an exclusive right over the relevant patent. This means that the patent owner can still implement their patent in Indonesia, as well as being obliged to pay the relevant annuity fees for the patent.

Contacts



Chandra M. Hamzah
Partner and Co-Founder

D +62 21 2555 9999
F +62 21 2555 7899
chandra.hamzah@ahp.id



Dewi Soeharto
Partner

D +62 21 2555 7891
F +62 21 2555 7899
dewi.soeharto@ahp.id

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP
T +65 6535 3600
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office
T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**
T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.
T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong
T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited
T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)
T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.

Our Regional Presence



Based in Indonesia, and consistently gaining recognition from independent observers, Assegaf Hamzah & Partners has established itself as a major force locally and regionally and is ranked as a top-tier firm in many practice areas. Founded in 2001, it has a reputation for providing advice of the highest quality to a wide variety of blue-chip corporate clients, high net worth individuals, and government institutions.

Assegaf Hamzah & Partners is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Assegaf Hamzah & Partners and subject to copyright protection under the laws of Indonesia and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Assegaf Hamzah & Partners.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Assegaf Hamzah & Partners.