



Directorate General of Intellectual Property Rights
Ministry of Law and Human Rights
The Republic of Indonesia

LEGAL AND REGULATORY FRAMEWORKS ON INTELLECTUAL PROPERTY RIGHTS

**Directorate General of Intellectual Property
Rights – Indonesia**
Jakarta, 29 November 2010

Recent IPR Laws



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Laws on IPR:

- a. Law No. 30 of 2000 regarding Trade Secret;
- b. Law No. 31 of 2000 regarding Industrial Design;
- c. Law No. 32 of 2000 regarding Lay-out Design of Integrated Circuit;
- d. Law No. 14 of 2001 regarding Patents;
- e. Law No. 15 of 2001 regarding Marks;
- f. Law No. 19 of 2002 regarding Copyrights; and
- g. Law No. 29 of 2000 regarding the Protection of Plant Variety

Remarks:

- a to f are administered by Directorate General of IPR-Ministry of Law & Human Rights;
- g is administered by Ministry of Agriculture.

Membership on International Agreements



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1. Agreement establishing the World Trade Organization (ratified by Law No. 7/1994)
2. Paris Convention for the Protection of Industrial Property and Convention Establishing the World Intellectual Property Organization (ratified by President Decree No. 15/1997);
3. Patent Cooperation Treaty (“PCT”) and Regulations under the PCT (ratified by President Decree No. 16/1997);
4. Trademark Law Treaty (ratified by President Decree No. 17/1997);
5. Berne Convention for the Protection of Literary and Artistic Works (ratified by President Decree No. 18/1997);
6. WIPO Copyright Treaty (ratified by President Decree No. 19/1997)

IPR Policy in National Development Planning



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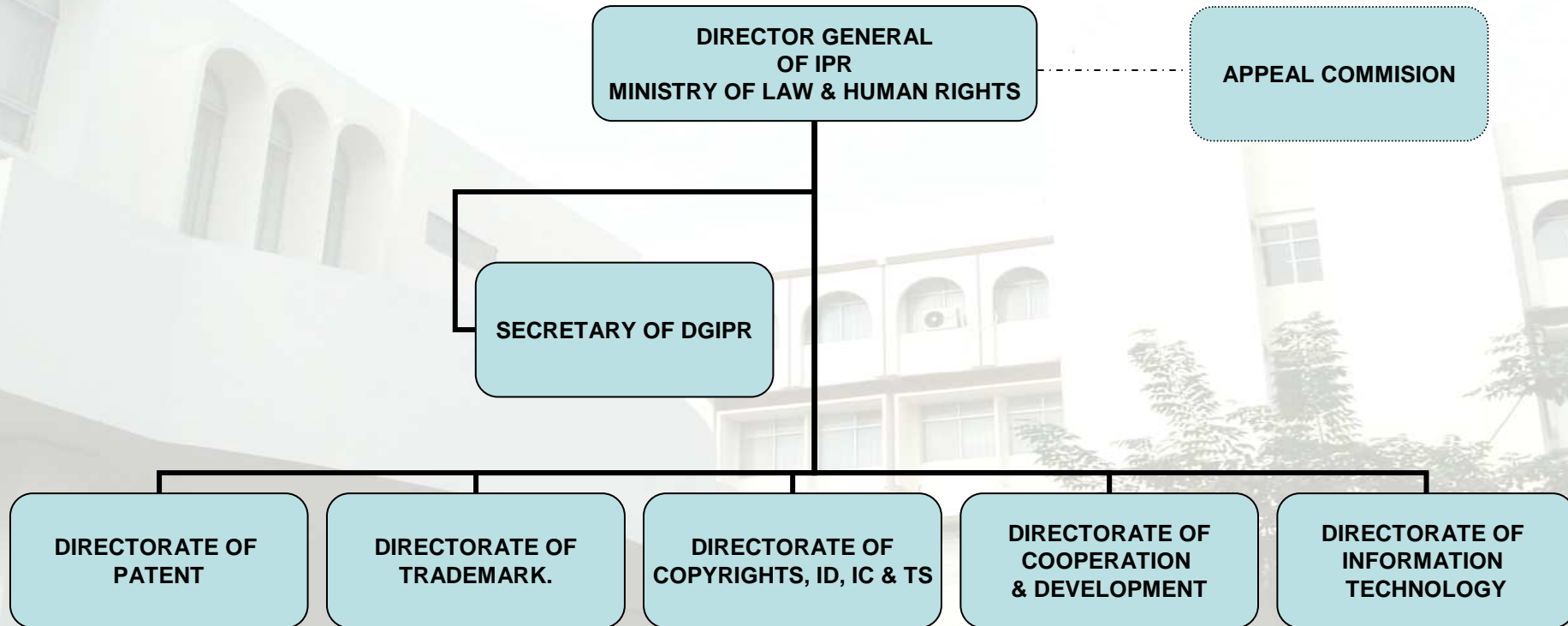
Policies of Indonesia's National Long Term Development Plan 2005-2025, articulated in the President Decree of the Republic of Indonesia Number 5 Year 2010 Concerning National Middle Term of Development Planning 2010-2014:

- strengthening Indonesia's economic competitiveness, and an improvement of human resources quality, particularly in the fields of science and technology.
- the importance of Intellectual Property Rights, particularly patent is acknowledged as one of the weaknesses of capacity of national innovation.
- The strategy to increase national innovation will be through strengthening of comprehensive national innovation system systematically and by building collaboration among tripartite: Government, University and Industry
- Law No. 18 of 2002, concerning National System of Research, Development and Implementation of Science and Technology ; Government Regulation No. 20 of 2005, for transfer technology; and Presidential Decree No. 32 of 2010 concerning establishment of *Indonesia National Innovation Committee*)

Organization Structure of DGIPR



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Vision of DGIPR

The establishment of an effective IPR system that supports the national development

Missions of DGIPR

To administers the IPR system by:

- granting protection, rewards and recognition to every creativity,
- promoting technology and knowledge-based investment and economic growth,
- encouraging an innovative and inventive culture.

Copyright



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- Copyright → an exclusive right for an Author or the recipient of the right to publish or reproduce his Work or to grant permission for said purposes, without decreasing the limits according to the prevailing laws and regulations.
- Related Rights → the rights which are related to Copyright, that is, the exclusive right for a Performer to reproduce or to broadcast his/her performances; for a Producer of Phonograms to reproduce or to rent phonographic works; and for a Broadcasting Organization to produce, reproduce, or to broadcast its broadcasting works.

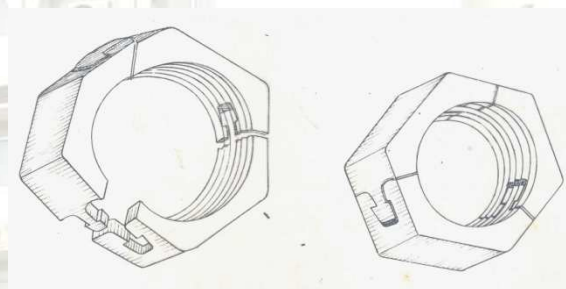
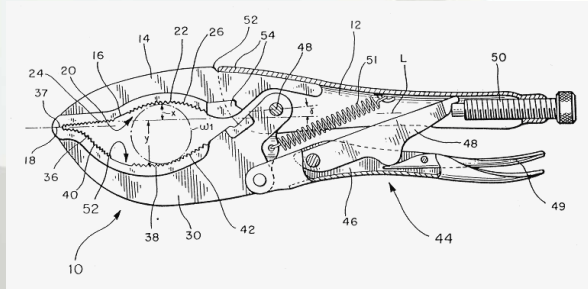


Patent



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- Patent → an exclusive right granted by the State to an Inventor for his Invention in the field of technology, for a certain time, to exploit his Invention or to authorize another person to exploit it.



Trademark



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- Mark → a sign in the form of a picture, name, word, letters, figures, composition of colours, or a combination of said elements, having distinguishing features and used in the activities of trade in goods or services.
- Trade Mark → a Mark that is used on goods traded by a person or by several persons jointly or a legal entity to distinguish the goods from other goods of the same kind.
- Service Mark → a Mark that is used for services traded by a person or by several persons jointly or a legal entity to distinguish the services from other services of the same kind.
- Geographical Indication → protected as a sign which indicates the place of origin of goods, which due to its geographical environment factors, including the factor of the nature, the people or the combination of the two factors, gives a specific characteristics and quality on the goods produced therein.



Industrial Design



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- Industrial Design → a creation on the shape, configuration, or the composition of lines or colours, or lines and colours, or the combination thereof in a three or two dimensional form which gives aesthetic impression and can be realized in a three or two dimensional pattern and used to produce a product, goods or an industrial commodity and a handy craft.



Trade Secret



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- Trade Secret → information in the field of technology and/or business that is not known by the public and has economic values as it is useful in business activities, and the confidentiality of which is maintained by its owner.
- The scope of protection on Trade Secret shall include methods of production, methods of processing (preparation), methods of selling, or other information in the field of technology and/or business that has economic values and is not known by the public in general.



Recipe?

General Illustration on IPR



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NO.	DESCRIPTION	COPYRIGHT	PATENT	TRADEMARK	INDUSTRIAL DESIGN
1	Subject	Author	Inventor	Trademark Owner	Designer
2	Object	Artistic, literary, scientific works; and Neighboring rights	Technological Invention	Trade Symbol	Ornamental aspect/ aesthetic Design on Product
3	Substantive Requirements	Originality	Novel, inventive step, industrial applicability	Distinctiveness	Novel
4	Procedural System	Declarative (No substantive examination)	Constitutive (Full Substantive Examination)	Constitutive (Full Substantive Examination)	Constitutive (Substantive Examination if there is any opposition)
5	Appeal Examination by Appeal Board	No	Yes (only objection to refusal)	Yes (only objection to refusal)	No (Commercial Court)
6	Annual Fee	No	Yes	No	No
7	Term of Protection	Life of Author + 50 years	Patent (20 year) Simple Patent (10 year)	10 year	10 year
8	Term of Protection extended	No	No	Yes	No
9	Criminal Sanction (Jail/Penalty)	Min. 1 month and/or IDR 1.000.000: Max. 7 years/ IDR7.000.000.000	Max. 4 years and/or IDR500.000.000	Max. 5 years and/or IDR1.000.000.000	Max. 4 years and/or IDR300.000.000



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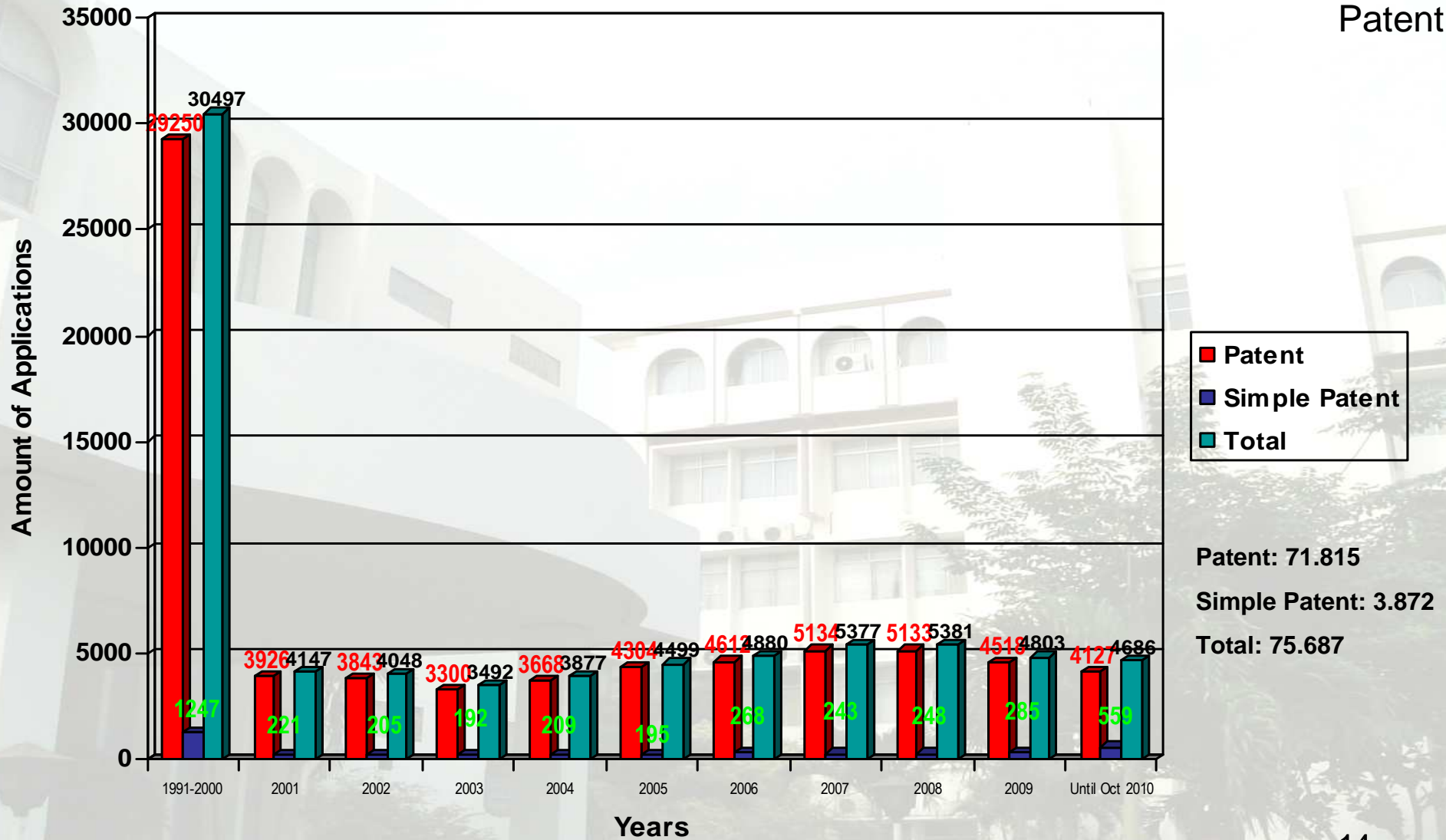
STATISTICS ON PATENT

Applications in Indonesia (Patent & Simple Patent)



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Patent

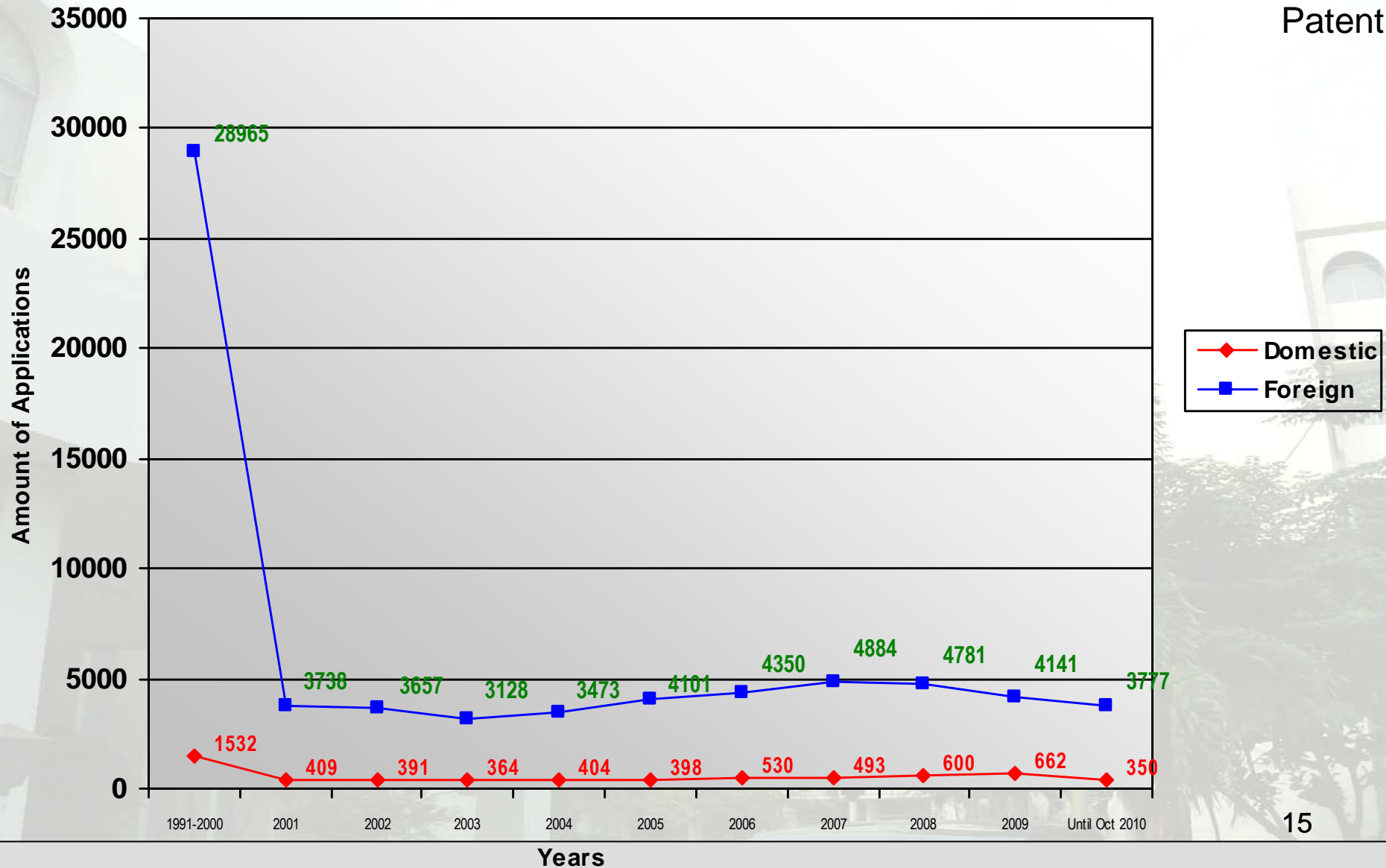


Patent Applications Filed in Indonesia (Domestic/Foreign)



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Patent

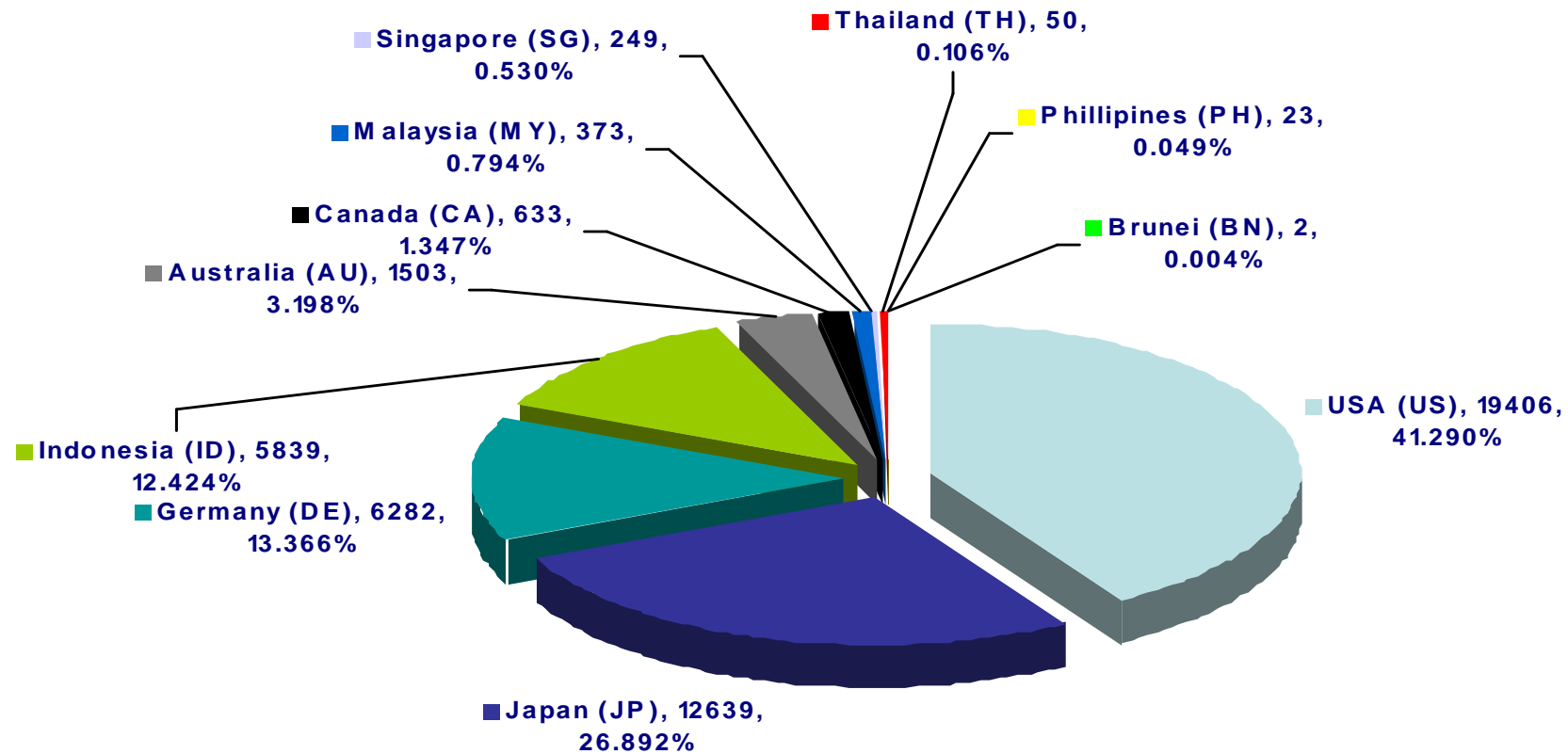


Applications by Country Filed in Indonesia 1991-2009



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Patent





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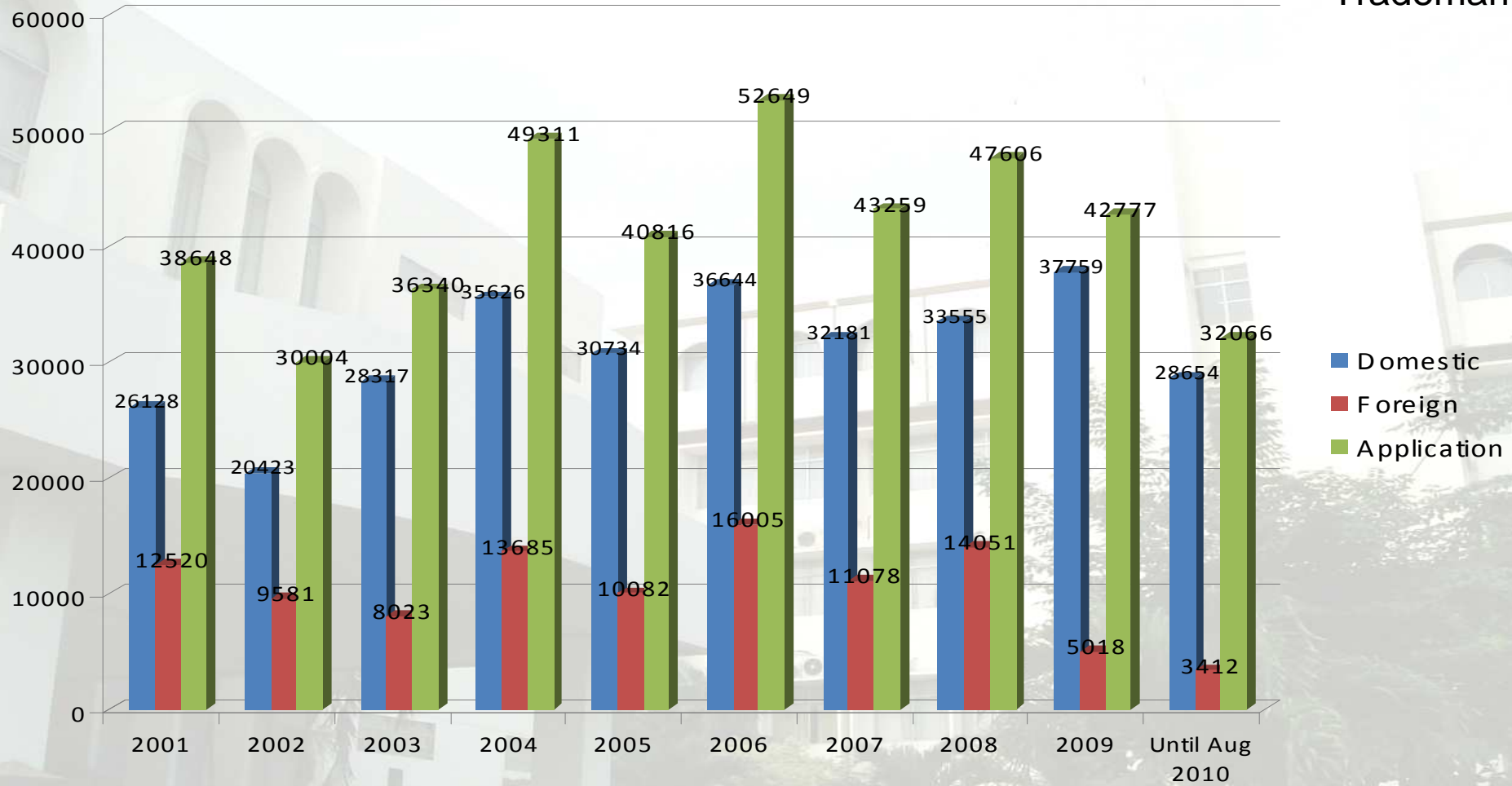
STATISTICS ON TRADEMARK

Trademark Applications (Domestic/Foreign)



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Trademark



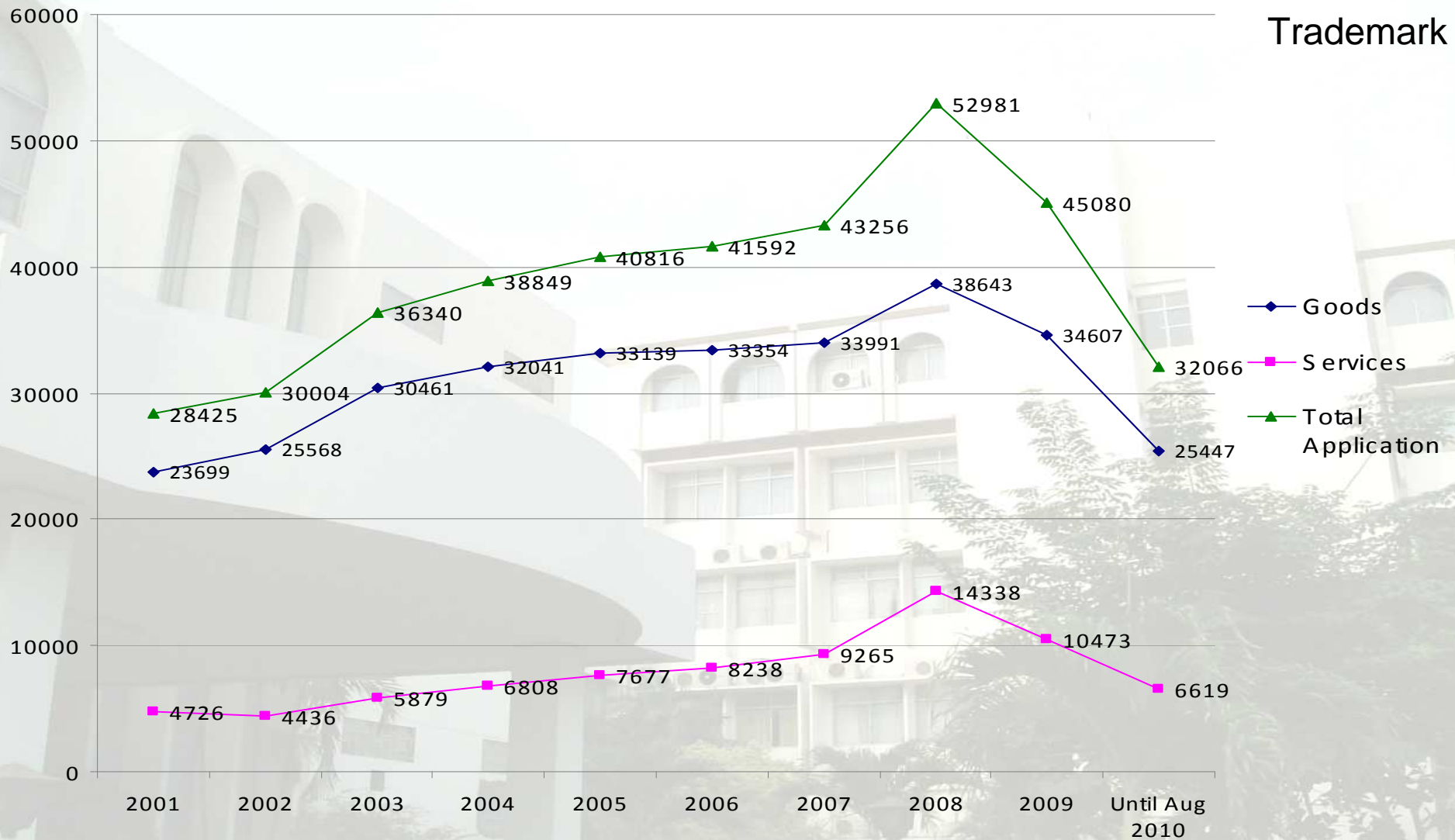
Total: 413.476 applications

Trademark Applications (Goods/Services)



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Trademark





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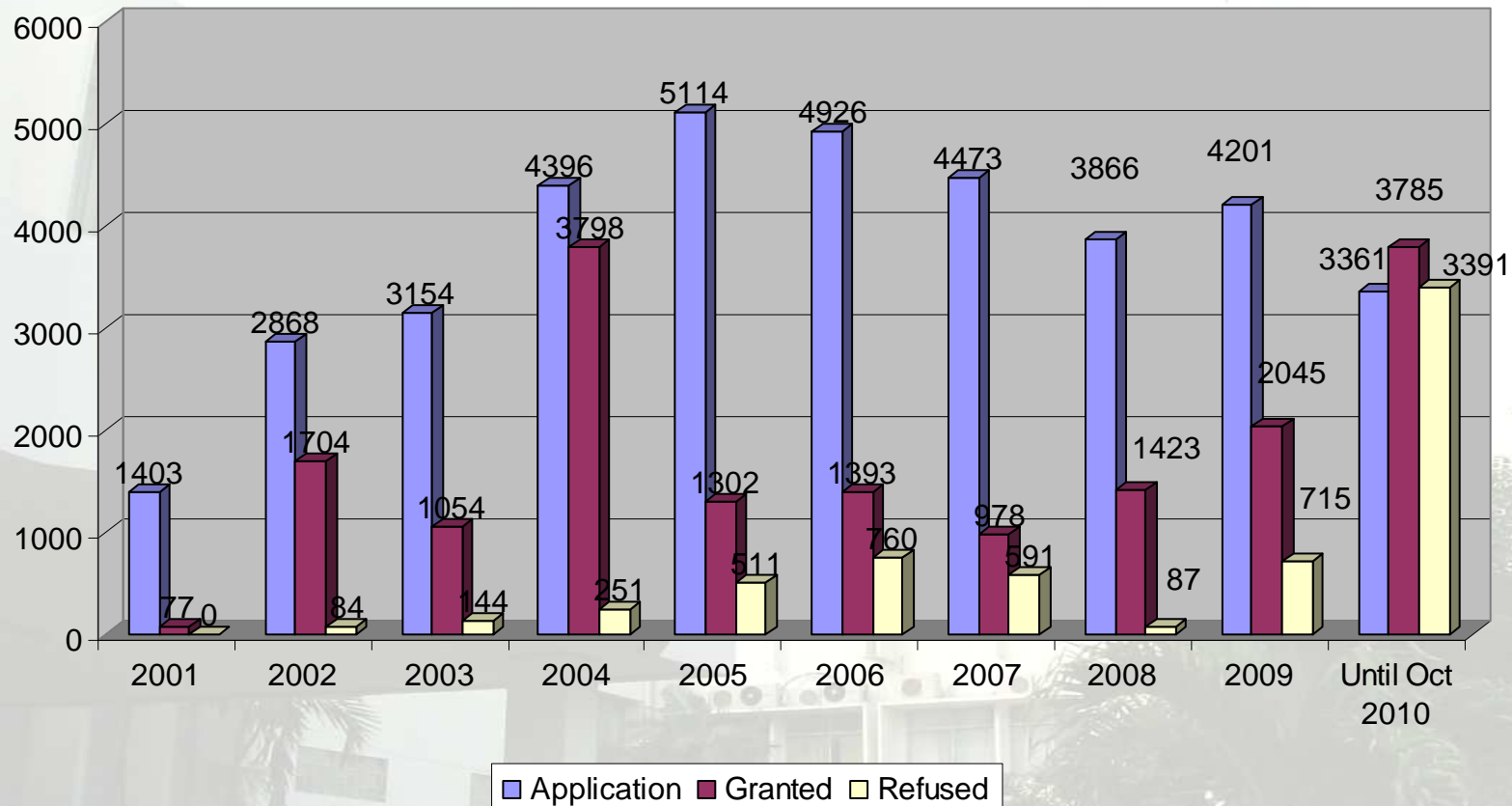
STATISTICS ON INDUSTRIAL DESIGN

Industrial Design Applications Filed in Indonesia



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Industrial Design



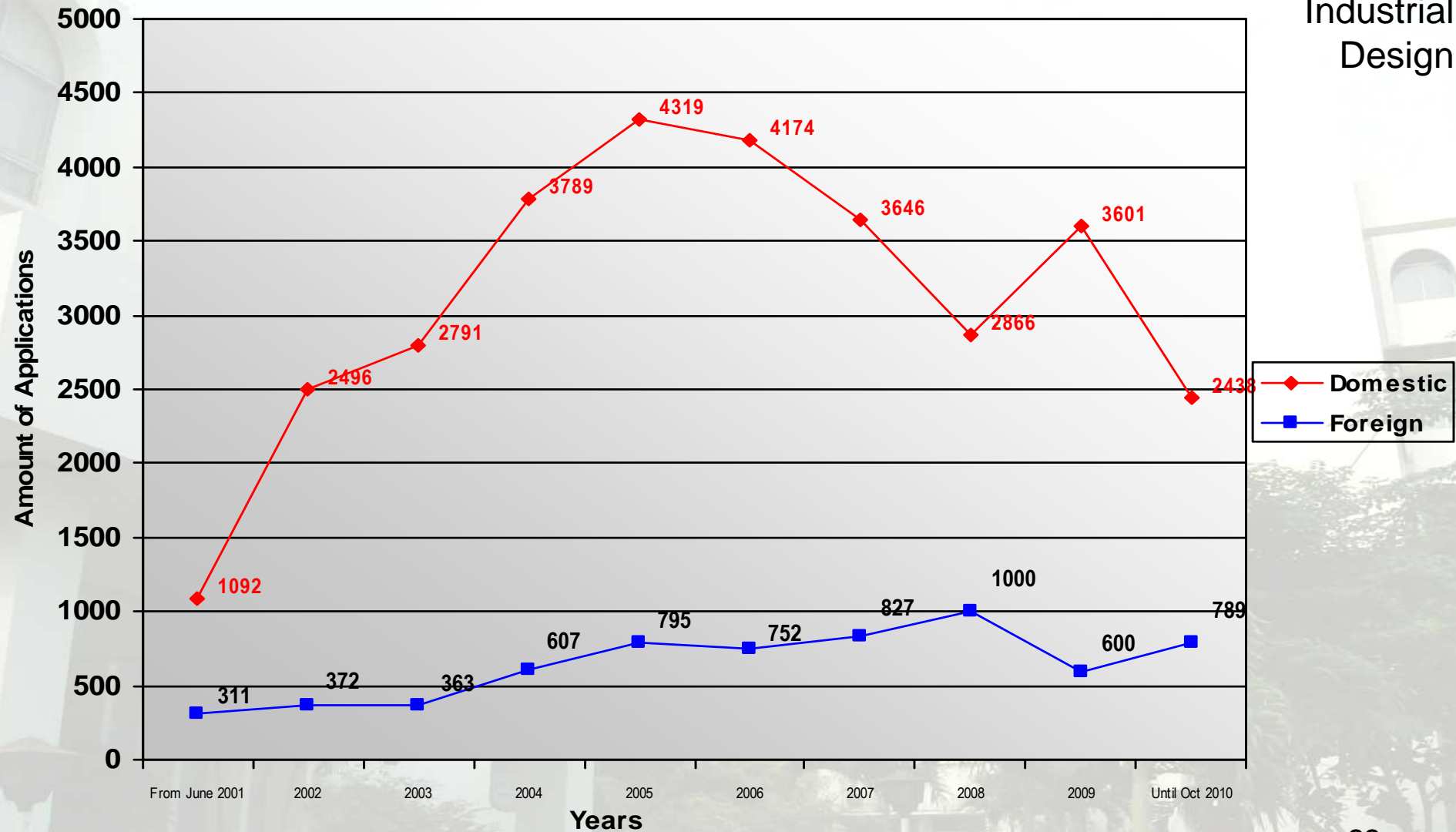
Total: 30.337 applications

Industrial Applications Filed (Domestic & Foreign)



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Industrial Design

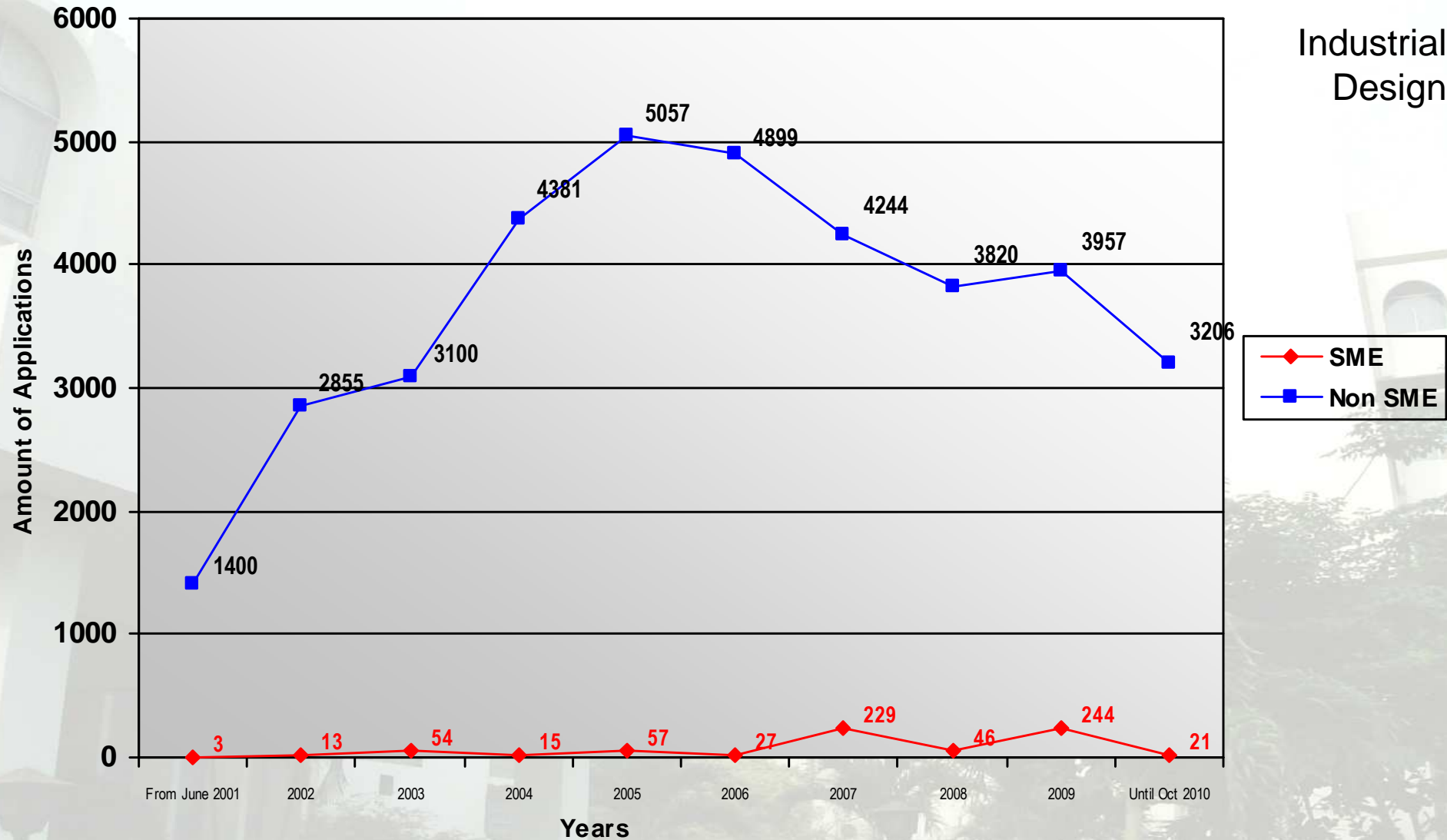


Industrial Applications Filed (SMEs & Non SMEs)



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Industrial
Design



Current Issues and priorities (1)



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I. Indonesia is in a process to revise its laws on IPR (Patent, Trademark, Industrial Design and Copyright). Generally, the new revision of IPR laws contains among others:

- The improvement of the IPR registration systems;
 - The improvement of the scope of IPR protection by introducing three dimensional trademark as a new type of trademark and also the application of partial design in industrial design.
 - Improvement of the nature of civil damages and punishment → depend on the nature of infringement, if it is related or harmful to society, public health, the damages and punishment will be higher than ordinary trademark infringement.
 - The implementation of the new international standards on IPR like Madrid Protocol for trademark application and Doha Declaration on TRIPS Agreement and Public Health for patent on pharmaceutical products.
 - The improvement of the function of the patent appeal board to ensure the adequate and effective administrative of the patent appeal procedures.
- Discussion on codification of all IPR laws



II. Backlog Documents (substantive and administrative)

III. IPR Enforcement

IV. Bureaucracy Reform

Law Enforcement



1. Establishment of the National Task Force on handling of IPR Infringement based on the Presidential Decree No. 4 of 2006 with task:
 - formulate national policy and strategy to prevent IP violations
 - coordinate enforcement agencies to set up strategy to combat and proceed criminal charges until final decision of courts
 - educate and socialize public awareness
 - Improve bilateral, regional and multilateral cooperation to prevent IP violations
2. Gov. Regulation on optical Disc enacted in 2006
3. Establish a monitoring team to supervise the optical disc factories and sweeping to shops and vendors selling pirated products by the police
4. Sending warning 20,000 letters to almost all malls and business offices
5. Sending letter to Government institutions encouraging to use original software
6. Campaigning through electronic and printing media and seminars



THANK YOU

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