

IPR policies, in particular patent, In Pharmaceutical Products, Cosmetics and Herbal in Indonesia

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**DIREKTORAT JENDERAL HAK KEKAYAAN INTELEKTUAL
KEMENTERIAN HUKUM DAN HAM RI**

I. Introduction

In institutional (IP Tools), Implementation IPR system, particularly the patent of a country can includes (3) three kinds:

- a). Administration and patent protection,
- b). Utilization data and patent information, and
- c). Utilization of intangible asset in the field of intellectual property law that includes licensing, use of patent certificate for collateral, IP valuation and patent auction.

From the third case, in this paper will be delivered importance of institutional and utilization of items a) and b) above to support research/development and business as well as business activities/national industry.

Reasons Why should Protect the IPR?
(both constitutive and declarative view point)

- To prevent falsified (70%) BRAND / CR / ID PERCEPTION
- Policy of the company/institution (23.4%)
- Preceding its competitors (the perspective of technological development) (20.3%)
- Prestige (dignity) in investment companies (10.1%)
- To prevent said counterfeit goods / ORDER TO BE CONSIDERED plagiarized (6.5%) PERCEPTION for patent
- Other reasons (5.8%)

(Source: OHIM / EC / European Community) (2002)

4 FACTS INDICATE THAT MANAGEMENT IPR PATENTS IS A VERY IMPORTANT

- CURRENT WORLD ECONOMY 75% HELD BY THE INTANGIBLE ASSETS,
(INCLUDES IPR (WORLD BANK))
- THERE ARE MANY REGIONS/COUNTRIES THAT HAVE NATURAL RESOURCES
BUT CAN NOT DO MANY THINGS,
OTHERWISE THERE ARE SOME REGIONS/ COUNTRIES THAT DO NOT HAVE ANY
NATURAL RESOURCES BUT CAN DO MANY THINGS
- IPR system is still regarded as a business management option or
have a business management needs.
- IPR is still seen as "Cost Center" or have been seen as "Asset Center".

II. IPR policy, especially patent for pharmaceutical products, cosmetics and herbal, in Indonesia

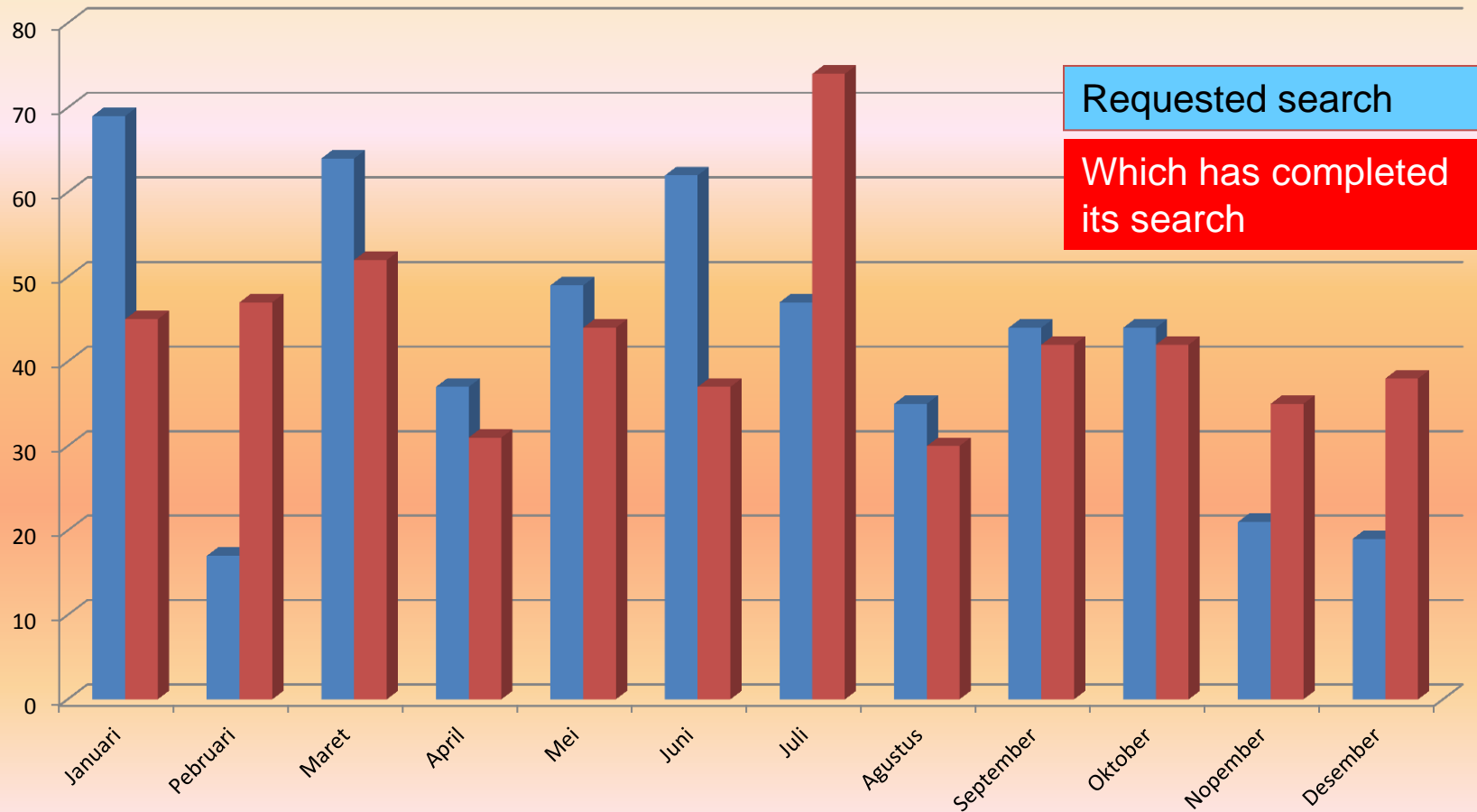
II.a. Policy on the upstream side, include:

- (1) Provide data and information in the form of patent publications to address the often questioned by Employer/ Local Industries engaged in the field of herbal , cosmetics, and pharmaceutical, for example regarding some reasons as follows:
- Is there a patent application filed in Indonesia about the ingredients or compounds "... XX ...", so that when we as manufacturers produce in Indonesia would not infringe patents someone?
 - Is there a patent application filed in Indonesia on the substance or compound "... ZZ ...", so that when we did refinement of materials / compounds "..ZZ .." to produce a product that can be commercialized to be considered infringe patents someone?

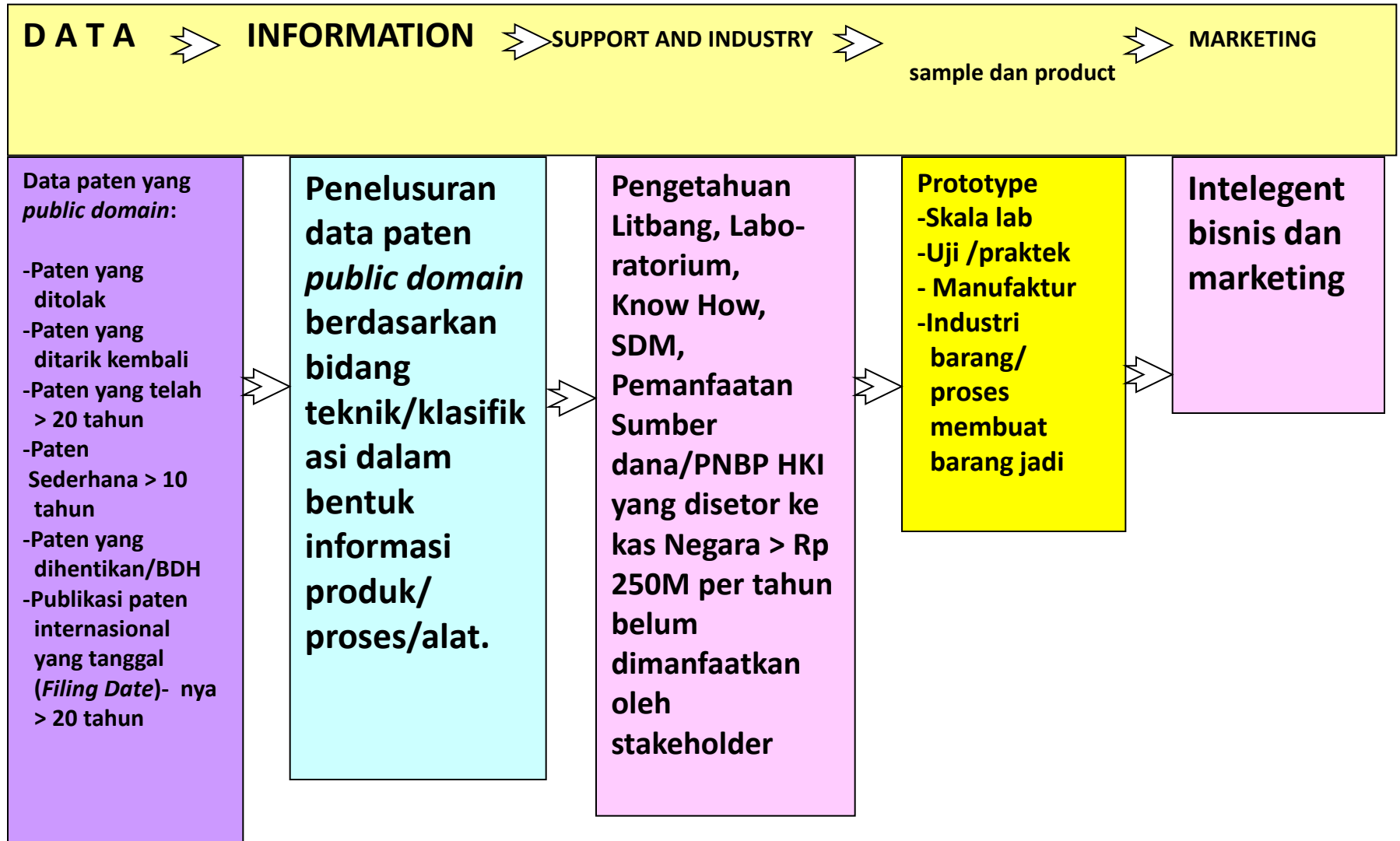
QUESTIONS PEOPLE ARE OFTEN REQUEST MADE THROUGH THE TROUBLES TO address to Division of CLASSIFICATION AND PATENT SEARCH, DJ IPR

- (2) Provide data and information in the form of publications patent for the purposes of:
- a. Develop compounds or chemicals that new; or?
 - b. Modification of compounds or chemicals that there to develop new formulations, new composition, or combination (known as drug development gradually)?
 - c. Develop a process for the manufacture of active pharmaceutical; and
 - d. Develop a formula in a preparation to meet certain criteria in accordance with the desired.

Search Query Graph average in 2011-2013
For Herbal Products and Pharmaceuticals
On the basis of the keyword "active compounds" proposed by the
Employer/Local Industry engaged in



FLOW CHART OF USING DATA AND INFORMATION OF PATENT



II.b. Policy on the upstream side also includes:

1. Technical assistance-mediation assistance to guide the inventor/applicant in expressing his research to be formed into a working paper patent (specification/description of the patent application);
2. Financial assistance in the form of assistance to the public patent application fee of individual researchers or SMEs according to the capability of the current year DIPA if budgeted.
3. Administrative-technical consulting assistance, for example, whether a patent application filed only to the extent obtaining filing date and continue until the substantive examination but not until granted a patent that is not affected by the obligation to pay the annual fee for invention can not be used commercially, or continued until it was decided to be ready saddled patent for an annual fee.

II.c. Policy on the side of the center include:

(1) Administrative Patent Application:

(a). a). Immediately set to be given Patent Application Filing Date (if already complete a minimum of formality requirements for a patent);

(filing date is very important because the filing date is the first legal relationship between the applicant and the state will receive a patent application).

(b). Publication / announcement of a patent application (for 6 months to 3 months for patents and utility models), where during the announcement period allowed to file a complaint with the public written evidence that the patent application is filed is not granted a patent).

If the expiration of the time its not mind but giving citations input document as a substantive examination of the patent.

Patent applicants are given the opportunity accelerate the announcement of a patent application by paying a fee in accordance with applicable regulations (+ - 200 rb dollars), so soon after the announcement ended immediately be filed if the substantive examination of the substantive examination fee (\$ 2 million) has been paid to the patent and Rp. 350 rb for simple patent. Thus the application completion time can be reduced significantly.

..... continued policy on the side of the center:

2. Substantive Examination of Patent Application:

Acceleration substantive examination can be done by performing-mediation assistance regarding the examination submitted to the Patent Examination Division so the total turn around time is much reduced, if the applicant is active carry-out a hearing or mediation or technical-assistance.

Note:

1. If the consultation which the substantive examination of a patent application is done during office hours at the Directorate of Patents is the term used to execute an agreement HEARING first time;
2. If the outside of working hours and outside the Patent Office where the applicant was accompanied by agencies / institutions that manage research with the costs borne by the Host institution, then it is called the Assistance-mediation.

II. d. Policy on the downstream side includes:

(1) The policy of Laws 14/2002 on Patents:

a. Section 135 (a), of whom stated principles:

Importing a pharmaceutical product from other countries who have outstanding legal according to the patent holder, wherein the pharmaceutical product patent has been protected in Indonesia. It is often called parallel imports and not a criminal offense. (parallel import)

This policy can be used if the price of a pharmaceutical product in Indonesia is very expensive compared to the price that has been circulating legally at the international level.

Thus we can guarantee a sense of justice with a reasonable price considering the drug linked to the needs of the general public.

b. Section 135 (b), of whom stated principles:

The other party is not a criminal offense if, within a period of 2 years before the end of period of patent protection, the other party to produce a pharmaceutical product patent protected in Indonesia in order to obtain licensing and marketing after patent protection expires. Thus it can be achieved availability of drugs at reasonable prices. (bolar provision)

(advanced) policy on the downstream side

1. The policies contained in the Presidential Decree No. 76 in 2012 about Anti-viral and viral Retro
(An Implementation of Patent by the Government to appoint drug manufacturers in the country to implement the drug patent to remain notify and consider the interests of the patent holder on the Implementation of the Patent by the Government for urgent community needs)
2. Needs lisesni and compulsory licensing arrangements are still under discussion to be approved at the level of Secretary of State (Setkab).
3. Setting the right balance inventors researchers working in the institution / agency / government agencies to obtain a reasonable royalty is also still under discussion with the Ministry of Finance related non-tax issues.

III. AMONG HERBAL, COSMETICS AND PHARMACEUTICAL PRODUCTS (the knowledge of traditional medicine and pharmaceutical drugs)

Indonesia is rich in biodiversity if it can be conducted by the National Inventory then each certain efficacious medicinal plants studied to look for materials or active compounds that can be a source of raw materials pharmaceutical drugs and then can be produced industrially.

For example:

1. Traditional Knowledge: streamlining meanstuation of plant-material traditional medicinal plants and spices (as traditional knowledge or as IP communal) hereditary knowledge and researched material active in order to obtain an invention that can be registered as patent (as IP Personal) and then transformed into organic chemistry and made in industrial scale as a healthy beverage for the coming months, then sold to a particular brand (which is also as other types of IP Personal).

So in one type of IP Communal can produce at least two IP Personal and may be more).

Advanced example:

2. The patent process and herbal products (number of patents have been given legal protection in Indonesia. Some active ingredients of herbs have been able to get into China.

Note:

- Should before exporting to other countries, carried out registration of patents to other countries so that when the products exported are not copied or imitated by others.
- To meet the needs of mass, the plant-based products should also be sought so that the active compounds can be produced in bulk organic chemicals.

These examples are not only valid on herbal products / pharmaceuticals but food products or beverages should also be the same logic. For example civet coffee is very popular and demand is high, then it should look for products of fermentation in the stomach outside mongoose but the process is the same as or similar to the fermentation in the stomach mongoose that can be mass produced industrially although luwaknya being sick.

Another example: TRADITIONAL KNOWLEDGE TO MAKE MILK BASED VEGETABLE BASE ARE CURRENTLY AVAILABLE FROM SOYBEAN, THEN SUCH OTHER sought for plant-based FROM SWEET, POTATOES, AND THE LIK

Other examples of Traditional Knowledge

Can Become Based Innovation Development Association Patents

Mangrove fruit known if eaten headache

Cause Dizziness Mangrove known that fruit contains Cyanide

as the Cassava Rubber (Telo pup). Cassava is if soaked overnight and the water is removed and washed many times can be made food "gatot" and safe to eat. In line with this invention is related to mengekstraksi cyanide in mangrove can be done and when it is made of raw material powders for making cakes and pastries turns aromatic and delicious taste can beat the chocolate pieces.

Accordingly Traditional Knowledge supposedly when hanging roots of mangrove trees which have not touched the sea water can be used to supplement the male.

Need to research 'COMPOUND / MATERIAL ON WHAT "contained in the roots before contact with sea water.

The active ingredients that need to be investigated because it can not be patented and diindsutrikan and root crops or plants that may become extinct. And further made its synthesis that can be made from a variety of sources with the same active ingredient that can be mass produced.

EXAMPLES IN THE EFFORT TO DO AS A CHANCE OF INNOVATION AND CREATIVITY FOR IMPROVING SKILLS ADDED VALUE OF EXISTING by means of combining ORDER HAS TWO GOALS e.i:

1. MAKING THE SAME MARKET but FOR DIFFERENT PRODUCTS, OR
2. MAKE A DIFFERENT PRODUCTS ON THE SAME MARKET

**THANK YOU
SEKIAN
TERIMA KASIH**

INFORMASI PATEN

