

INTELLECTUAL PROPERTY

MAJOR CHANGES TO THE INDONESIAN PATENT LAW AND WHAT IT MEANS FOR INNOVATION



In October 2024, the President of the Republic of Indonesia passed Law No. 65 of 2024 to amend Law No. 13 of 2016 on Patent (“**Amended Patent Law**”). This amendment is part of Indonesia’s ongoing efforts to strengthen its intellectual property framework and align with international standards, including the Trade-Related Aspects of Intellectual Property Rights (“**TRIPS**”) Agreement. The Amended Patent Law brings significant changes, expanding the scope of what can be patented. Now, in addition to products and processes, inventors can seek protection for systems, methods, and applications designed to solve specific problems. This broadened scope is crucial in today’s rapidly evolving technological landscape, where innovation often goes beyond traditional products. Additionally, the Amended Patent Law extends the disclosure period before filing a patent application (“**Grace Period**”) from 6 to 12 months, providing inventors with more time and flexibility.

The Amended Patent Law also introduces important changes for the pharmaceutical industry, particularly in areas like compulsory licensing and the Bolar provision, which allows for limited use of patented inventions for research and development purposes. These amendments, along with the expanded scope of patentability, are designed to accelerate national innovation, particularly in the digital realm, while simplifying the patent administration process. This focus aligns with the goals of Industry 5.0, an industrial paradigm emphasizing society-centred technology, sustainability, and resilience.

In this update, we explore the key changes introduced by the Amended Patent Law, exploring its implications for various sectors, including pharmaceuticals, technology, and manufacturing.

Key Changes Introduced by the Amended Patent Law

The Amended Patent Law brings important changes to Indonesia's patent system. These changes affect what can be patented and how the process works. They aim to encourage innovation and keep up with global standards. Below are the most important changes and what they mean for businesses.

- **Expanded scope of patentability**

Previously, patent protection in Indonesia was limited to products and processes, which posed challenges for innovators in emerging fields like software and artificial intelligence. The Amended Patent Law addresses this by emphasising the patentability of problem-solving systems, methods, and applications. This will allow innovative methods such as usage techniques, software algorithms, and other digital-based solutions to be registered, ultimately diversifying patent protection in Indonesia.

- **Patentability of computer programs**

While computer programs have always been unpatentable under Indonesian patent regulations, Article 4(d) of the Amended Patent Law introduces a valuable exception for inventions implemented by a computer. An invention implemented by a computer refers to the problem-solving ability, technical effect, and technical character driven by a computer. This amendment clarifies the requirements for computer programs to be patented. Alternatively, computer programs that do not meet these requirements can be recorded as copyright, subject to Indonesia's copyright regulations.

- **Extension of Grace Period**

The Amended Patent Law extends the Grace Period from 6 to 12 months. During the Grace Period, inventors will be able to exhibit their invention at official exhibitions held in Indonesia or abroad, use their invention for experimental and/or development purposes in Indonesia or abroad, and/or disclose their invention in scientific proceedings or forums. Inventions will not be considered published if a third party discloses them in violation of a confidentiality agreement within the Grace Period. The Grace Period is expanded to better accommodate the needs of inventors in submitting a patent application, such as

securing adequate funding. For comparison, Japan, Australia, and the United States are among the countries implementing a 12-month Grace Period.

- **Simplified patent administration**

Addressing previous concerns about time-consuming patent registration process, the Amended Patent Law introduces several changes to streamline patent administration. This includes an expedited publication process upon request (with a minimum of three months), allowing the invention to enter substantive examination faster. It also eases the process for patent applicants involving genetic resources and/or traditional knowledge, whereby they only need to submit statement letter stating the origin of such genetic resources and/or traditional knowledge instead of elaborating its complex process. Additionally, Article 128(2) to Article 128(6), which concerned the postponement of annual patent fee payments, has been removed in the Amended Patent Law.

Changes Impacting the Pharmaceutical Industry

The Amended Patent Law introduces significant changes that directly impact the pharmaceutical industry.

- **Compulsory licensing**

A key change is the removal of Article 93 and the addition of Article 111A, which eliminates the compulsory license for producing patented pharmaceutical products in Indonesia. The arrangement of compulsory licenses related to importing and exporting patented pharmaceutical products is now shifted to the scope of patent rights implementation by the government.

- **Bolar provision**

The Amended Patent Law revises the Bolar provision, which allows third parties or generic drug manufacturers to experiment on a patented drug before its expiration to secure regulatory approval for marketing a generic version once the patent expires. The Bolar provision is no longer restricted to a specific five-year period before the patent's expiration, and its scope is broadened to cover research and regulatory approval purposes. Pharmaceutical companies may benefit from this amendment through accelerated research and development of generic drugs, as well as faster regulatory review of pharmaceutical products.

Next Steps Forward

In light of these changes, companies should proactively review their invention portfolios to identify opportunities for new patent registrations under the Amended Patent Law. This is particularly crucial for those developing digital solutions, application techniques, and innovative methods, which now have expanded protection. Stakeholders in the pharmaceutical industry should carefully analyse the revised provisions on compulsory

licensing and the Bolar provision to optimise their intellectual property strategies and adjust research and development timelines accordingly.

It is also crucial for all patent holders, particularly individual inventors and smaller patent entities, to be aware of the removal of Article 128(2) to Article 128(6). This change eliminates the possibility of postponing annual patent fee payments. Therefore, timely payment is essential to maintain patent rights.

Overall, the Amended Patent Law encourages investors to actively seek patent protection for their inventions. This is evident in several key changes, including the extension of the Grace Period for public disclosures, the option to expedite the publication process, and the broadened scope of patentable inventions. These amendments signify a positive step towards fostering innovation and strengthening Indonesia's intellectual property landscape.

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