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COMPARISON OF INDONESIAN AND SINGAPORE PATENT LAW (Analytical Study in the field of Science and Technology)

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Abstract: This study aims to determine and analyze the implementation and legal protection of patent holders in the field of science and technology in Indonesia and Singapore, where both countries are WTO members that have ratified the Trips Agreement. The research method used is the normative legal method, using a legislative approach and a comparative approach. This study compares favourable laws in several countries regarding implementing patent protection. The data used are secondary data obtained from literature studies with descriptive qualitative analysis. Based on the study results, Indonesia and Singapore are two countries that have ratified the regulation. In Indonesia, patent rights are regulated by Law Number 13 of 2016 concerning patents. Meanwhile, the rules regarding patent protection in Singapore are regulated by the Patents Act, which is based on the British Patent Act 1977. Singapore patents are protected internationally through the Patent Cooperation Treaty (PCT). In defining patent law, Indonesia and Singapore have the same characteristics. This is because they both have significant similarities and differences and originate from TRIPs. As for the registration system, everything that contains systematics and procedures related to patent law has similarities. Indonesia and Singapore also have the same provisions regarding inventors with exclusive economic and moral rights.

Keywords: *IPR, Patent Law, TRIPs Agreement.*

INTRODUCTION

The development of technology in this digital era is very rapid, and the majority of people have made technology a primary need. Technology is a system that makes human life easier, such as computers, cellphones, machines, cars, motorbikes and other electronic objects that are most often used by humans in their daily lives. The rapid pace of technology has brought very significant changes to humans in their lives, both positive and negative impacts.[1] The positive impact felt by humans is increasing the intensity of

[1] Hendro Setyo Wahyudi, "Teknologi Dan Kehidupan Masyarakat," *JAS; Jurnal Analisa Sosiologi* 3, no. 1 (2014): 13–24.

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communication, making it easier to search for information in the era of globalisation, providing transaction facilities in the business world, and making work easier because it is more effective and efficient. Meanwhile, the negative impact is that quite a few of the younger generation, as the nation's successors, are brainwashed by seeing foreign cultural life, which is so contradictory to the values and culture of the Indonesian nation; sophisticated technology makes children and adults addicted to their gadgets.[2]

Indonesia is one of the parties that feels the impact of technological developments, both in terms of trade, information and the economy. A country's economic growth can increase with technology. Therefore, many countries focus on advancing and supporting their citizens in education, use of technology, and discoveries by applying technology. Existing technological inventions must be patented so that the inventor concerned can obtain legal protection for his invention. Another reason to obtain patent protection is to allow inventors to be given exclusive rights to apply their creativity and knowledge in making their inventions. With patent protection, the public will appreciate the invention more.[3]

The countries that participated in ratifying the convention on the Establishment of the World Trade Organization which have agreed to the Trade Related Aspects of Intellectual Property Rights (TRIPs agreement) agreement are obliged to implement the contents of the international agreement. One of these agreements is the obligation to form statutory regulations regarding patents where the laws that have been formed must be adjusted based on the provisions that have been ratified from international agreements.[4]

In Indonesia, the rules regarding patents are regulated in Law no. 13 of 2016 concerning Patents. What is meant by a patent according to the Indonesian Patent Law is an exclusive right given by the state to an inventor regarding his invention in the field of technology within a certain time to be implemented personally or can be transferred by giving approval to another person to implement it. Exclusive rights are rights that can be given to an inventor to implement his findings or prohibit other people from using his findings, whether to reproduce, sell or use for other needs.[5]

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[2] Novi Yona Sidratul Munti and Dwi Asril Syarifuddin, "Analisa Dampak Perkembangan Teknologi Informasi Dan Komunikasi Dalam Bidang Pendidikan," *Jurnal Pendidikan Tambusi* 4, no. 2 (2020): 1799–1805.

[3] Mastur, "Perlindungan Hukum Hak Kekayaan Intelektual DiBidang Paten," *Jurnal Ilmiah Ilmu Hukum Qisti* 6, no. 1 (2012): 65–81.

[4] Mastur.

[5] Sutarman Yodo, "Perlindungan Hak Paten (Studi Komparatif Lingkup Perlindungan Di Berbagai Negara)," *Fiat Justisia: Jurnal Ilmu Hukum* 10, no. 04 (2016): 697–714.

Apart from Indonesia, Singapore is also one of the countries in the TRIPs agreement. As a member country of the TRIPs agreement, Singapore also implements laws and regulations regarding patent protection in its country. The definition of patent itself in Singapore patent legislation is basically the same as the definition in the Indonesian Patent Law. A patent in the Intellectual Property Office of Singapore (IPOS) is a right given to an inventor regarding his invention to prohibit other parties from using his invention either for trading or for other purposes without permission from the inventor. Singapore has patent regulations based on the UK Patent Act 1977. Singapore patents are protected internationally under the Patent Cooperation Treaty (PCT).[6]

Patents in Indonesia and Singapore have similar definitions because Indonesia and Singapore are both countries that participate in the TRIPs agreement and are therefore obliged to regulate intellectual property rights in their respective countries. Even though patents are regulated in the laws of both countries, there are a number of differences in the regulation of someone's inventions in the field of technology. The comparison of patent protection between Indonesia and Singapore was carried out because both countries participate in the TRIPs agreement and are therefore obliged to regulate Intellectual Property Rights. However, although the basis for this regulation is the TRIPs agreement, the application of Intellectual Property Rights law in these countries is different.

Based on the literature search, a study was found that discussed patents in Indonesia and Singapore, namely the study by Eva Veronica Gulttom and N.G.N Maharaini Kerti, entitled a comparison of non-traditional trademark regulation laws between Indonesia and Singapore [7]. In their research, Eva and Maharaini focused more on discussing brands, namely similarities and non-traditional brands in Indonesia and Singapore. From the title and main discussion, there is clearly a very significant difference with this study, where this study discusses the comparison of patents in the field of science and technology in Indonesia and Singapore. In addition, research by Eva, there is also a comparative patent study discussed by Boy Ericson Siahaan, with the title of legal analysis of patent rights as objects of fiduciary guarantees in Indonesia and as objects of banking guarantees in Singapore.[8] The focus of the discussion in his research is on the position of patent rights as objects of fiduciary guarantees and in Singapore. As well as legal

[6] Trias Palupi Kurnianingrum, "Hak Kekayaan Intelektual Sebagai Jaminan Kredit Perbankan Intellectual (Propertu As Banking Credit Guarantee)," *Jurnal Hukum* 8, no. 1 (2017): 31–54.

[7] Eva Veronica Gultom and N.G.N Renti Maharaini Kerti, "Perbandingan Hukum Pengaturan Merek Non-Tradisional Antara Indonesia Dengan Singapura," *Tribuere* 1, no. 2 (2023): 120–27.

[8] Boy ericson Siahaan, "Analisis Yuridis Hak Paten Sebagai Objek Jaminan Fidusia Di Indonesia Dan Sebagai Objek Jaminan Perbankan Di Singapura," *Jurnal Ilmu Abdi Ilmu* 14, no. 2 (2022): 352–65.

protection for patent holders in Indonesia and Singapore. Although the research conducted by Boy Ericson was also about a comparison of patents, the study did not discuss fiduciary guarantees.

This research aims to find out and analyze the application and legal protection of patent holders in the fields of science and technology in Indonesia and Singapore, where these two countries are members of the WTO, which ratified the Trips Agreement. Through this research, it is hoped that it can contribute to scientific literature in the field of patents. Apart from that, this legal research is also expected to provide an overview of the form of patent rights regulation in Singapore. Comparative legal research on patent rights is also considered to be able to help form national laws to produce good regulations. This research focuses only on comparing the application of patent law and does not examine the advantages and disadvantages.

In this research, one of the research methods is used, namely the normative juridical method, using a legislative approach and a comparative approach. This research examines the comparison of positive laws that exist in several countries regarding the application of patent protection. The data used is secondary data obtained and studied indirectly, originating from literature studies that examine aspects of theory, comparison, structure and legal explanations. Secondary data was analyzed using descriptive qualitative analysis techniques to find appropriate and scientifically proven conclusions. Secondary data in this research consists of primary laws such as Law no. 13 of 2016 concerning Patents (Indonesian Patent Law); Singapore Patent Act (Chapter 221); and Patent Ordinance (Cap.154), Patent Notification (Appointment of Patent Office) (Cap.514A), Patent (Transferential Arrangement) Rules (Cap.514B), Patent (General) Rules (Cap. 514C), & Registration of Patent Ordinance (Chapter 42).

DISCUSSION

Based on the history of the emergence of Intellectual Property Rights, the World Intellectual Property Organization (WIPO) defines intellectual property as "Creations of the mind: invention. WIPO member countries consider a person's work or creation in the field of art, symbols and names to be related to the world of commerce, so that a person's findings or creations as intellectual property must be protected so that they are not misused, intellectual property is part of human rights

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that must be respected and protected especially in today's world of free trade, where a person's work can easily be misused by various parties to gain maximum profit.[9]

The term Intellectual Property Rights can be interpreted as a person's right to inventions in the form of works of art, names and symbols used by someone in the world of commerce. Provisions regarding IPR are contained in the WTO agreement, namely the TRIPs Agreement. This agreement came into effect in 1995, where for developing countries the transition period took effect, namely 4 years after the implementation of the TRIPs agreement, or to be precise in 2000, while for underdeveloped (poor) countries the transition period for implementation was given in early 2006.[10]

The TRIPs Agreement is the result of the adoption of two major international conventions in the field of industrial property and copyright, namely the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. Various developed countries in intellectual property rights have brought legal concepts to developing countries such as Indonesia and Singapore.[11]

Various countries involved in signing the TRIPs agreement, such as Indonesia and Singapore, are obliged to submit and comply with the provisions agreed upon in the agreement. The provisions regarding IPR in the agreement only contain general provisions, while the regulation of IPR provisions specifically gives each country the right to regulate them more specifically in their respective national laws and regulations. Since enforcement and regulations are completely delegated to individual countries,[12]it is necessary to implement patent regulations in Indonesia and Singapore as participating countries in ratifying the TRIPS Agreement. Thus, this comparative research will discuss the legal sources of patent regulation in the two countries, the formality of registration procedures, the period of protection, legal acts and various other things that have a common nature.

Application of Law and Protection of Patents in Indonesia

In Indonesia, patents are written in Law No. 13 of 2016 concerning Patents. The general provisions for patent implementation in Indonesia are adjusted based on the

[9] Theopita Indica Tampubolon, "Wipo Copyright Treaty," *International Law Making* 6, no. 1 (2012): 138–52.

[10] Tim Lindsey, *Hak Kekayaan Intelektual Suatu Pengantar Cet.4* (Bandung: Alumni, 2005).

[11] Tri Setiady, "Harmonisasi Prinsip-Prinsip Trips Agreement Dalam Hak Kekayaan Intelektual Dengan Kepentingan Nasional," *Fiat Justisia: Jurnal Ilmu Hukum* 8, no. 4 (2014): 595–613.

[12] Tim Lindsey, *Hak Kekayaan Intelektual Suatu Pengantar Cet.4*.

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provisions agreed in the TRIPs Agreement. A patent is an intellectual property that is protected by the state for its discoveries in the field of technology, where the inventor is given full rights over his findings to use or transfer them to other parties to be used for the welfare of society.[13]In the Patent Law, the subject and object of the invention cannot be separated from one another. If technology is created by more than one person or a group of inventors, then each inventor is given the same rights over his invention.

The rights attached to patents are exclusive rights, economic rights and moral rights. Exclusive rights are the inventor's rights granted by the state to no one or any party to use or exploit his invention without the inventor's permission, such as making, using, exporting, importing, selling and distributing. Moral rights are the inventor's right to be generally recognized. Moral rights also protect the personal value and reputation of the discovery. Meanwhile, economic rights are the rights obtained by the inventor for his invention in the form of royalties which can come from selling, distributing, duplicating or other actions that have economic value. Basically, granting patent rights is for developments in science and technology, respecting an invention, and providing incentives for an invention.[14]

In the Indonesian laws and regulations governing patents, patents are divided into two different forms, namely ordinary patents and simple patents. What can be done to differentiate between these two forms of patents can be seen from the type of invention, the period of protection that has been granted, and the number of inventions that can be registered by the inventor. If seen in general, ordinary patents are usually granted only for new inventions, while simple patents are inventions that previously existed but were being developed.[15]

The time limit for patent protection is stated in Articles 22 and 23 of the Indonesian Patent Law. For ordinary patents, the term limit is 20 years from the filing date, while for simple patents the term is 10 years, both forms of patents do not have an extension of the protection period. Once this time period has passed, the inventor's invention becomes the property of everyone, meaning that anyone is allowed to use, produce or reproduce it freely. The recording and announcement of

[13] Maya Jannah, "Perlindungan Huku Hak Kekayaan Intelektual (HAKI) Dalam Hak Cipta Di Indonesia," *Jurnal Ilmiah Advokasi* 06, no. 02 (2018): 55–72.

[14] Zulkifli Makkawaru, Kamsilaniah, and Almusawir, *Hak Kekayaan Intelektual Seri Hak Cipta, Paten, Dan Merek* (Sukabumi: Farha Pustaka, 2021).

[15] Erlina and Melisa Safitri, "Analisis Komparasi Antara Perlindungan Paten Biasa Dengan Paten Sederhana Berdasarkan Undang-Undang Paten," *Pranata Hukum* 15, no. 1 (2020): 30–42.

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expiry times starts from the moment the patent is registered. This regulation is intended to prevent a party from continuing to control an industry and it is feared that it could give rise to unhealthy business competition that would be detrimental to society.[16]Not all inventions can be patented, an invention can be patented if the invention is new or has differences from other inventions, if the invention has existed before or has no differences in function from previous inventions, then the invention cannot be patented. Findings can be considered new if no similarities are found with existing findings at the date of receipt. An invention cannot also be patented if the invention is deemed to be contrary to applicable laws and regulations, violates decency and public order. In addition, findings cannot be patented if the creation of the discovery involves humans or animals in the process of examination, treatment, medication and surgery.[17]

Patent rights are granted based on an application. A patent application can be submitted by completing several requirements in the form of specifications which include the title of the invention, background of the invention, description of the invention, drawings, as well as a description of the characteristics that are declared new and inventive in the invention. Applications for filing a patent can only be submitted for one invention or one unit of invention. The application is submitted in Indonesian and the patent application fee is paid to DJHKI in the amount of Rp. 750,000,-. After these requirements have been fulfilled by the applicant, the applicant will then be given an acceptance date. Furthermore, the applicant must complete various formal requirements in the form of required documents within a period of three months. Once the documents are complete, the Indonesian Directorate General of Intellectual Property Rights will publish the patent in the Official Patent Gazette.[18]

A patent can be transferred in half or in whole to another party in writing. This transfer can be carried out through various legal events such as written agreements, grants, inheritance, wills, endowments and so on. This is stated in Presidential Decree No. 37 of 2010 concerning Requirements and Procedures for Registration of Patent Transfers. Patent transfer is carried out by submitting a transfer application to the DJHKI accompanied by written evidence. Patent assignment is different from granting a patent license. Patent transfer is the transfer of patent ownership, either

[16] Freddy Harris, *Modul Kekayaan Intelektual Paten* (Jakarta: Kementerian Hukum dan Hak Asasi Manusia Direktorat Jenderal Kekayaan Intelektual, 2020).

[17] Freddy Harris.

[18] Makkawaru, Kamsilaniah, and Almusawir, *Hak Kekayaan Intelektual Seri Hak Cipta, Paten, Dan Merek*.

partially or completely. Patent transfers must be registered first with the DJHKI and recorded in the General Register of Patents. The transfer is invalid and null and void if the transfer is not registered with the DJHKI, this is as stated in the Patent Law. The transfer of a patent does not eliminate the moral rights of the inventor. This means that even though the patent has been transferred to another party, the name and identity of the inventor concerned will remain with him.[19]

A patent license is a license received by the patentee based on an agreement with the inventor, where the patentee has the right to use his invention for a predetermined period of time. The granting of a license is intended to provide economic rights to the patent within a predetermined time period and conditions. In the license agreement there are two types of licenses, including: a). An exclusive license is a license that can only be granted to one holder, and is only valid in a certain area. b). A non-exclusive license is a license given to more than one license holder, and is valid in several regions. License agreements must be registered with DJHKI Indonesia, which aims to prevent agreements that contain unreasonable elements or requirements. In the Indonesian Patent Law, it is stated that in making a license agreement it is not permitted to include various provisions with the nature of causing harm to the Indonesian economy, either directly or indirectly, as well as limiting the Indonesian people in developing technology in general. The application for license registration as referred to in the statement will be rejected by the Directorate General of Indonesian Intellectuals.[20]

Article 130 of the Indonesian Patent Law states that there are four reasons why a patent is revoked:[21]1). Application for patent revocation granted by the minister by submitting a written application. Patent holders can file all or part of a claim against the ministry. Revocation of a patent through an application to the minister must be based on a written agreement from the patent recipient, if there is no agreement then the patent cannot be revoked. The results of the Minister's decision regarding patent revocation will be notified to the patent holder in writing, as well as recording and officially announcing the patent revocation; 2). revocation of a patent based on an inkracht court decision; 3). Revocation of a Patent due to a

[19] Makkawaru, Kamsilaniah, and Almusawir.

[20] Kadek Devi Arta Adnyani, I Nyoman Putu Budiartha, and Ni Made Puspasutari Ujianti, "Perlindungan Hukum Terhadap Penerima Lisensi Paten Dalam Alih Teknologi," *Jurnal Interpretasi Hukum* 1, no. 1 (2020): 24–29.

[21] Alif Muhammad Ardani, "Penghapusan Paten Terdaftar Di Indonesia: Perkembangan Dan Penyebabnya," *Undang: Jurnal Hukum* 2, no. 1 (2019): 147–68.

decision issued by the Patent Appeals Commission, where points 2 and 3 are carried out if the registered findings conflict with the provisions of the applicable rules regarding aesthetic creation, schemes, rules, methods of carrying out activities involving mental activities, games or business, as well as processes or its implementation violates applicable laws, violates public order or violates morality. Patent revocation by the court can also be carried out if the patent resembles another invention that has been previously patented, or if the patent holder violates provisions relating to the manufacture and use of products outside Indonesia or does not transfer technology to absorb capital investment. and providing employment opportunities; and 4).

Along with economic and trade developments, especially in the free trade era, intellectual property rights disputes arise which result in economic losses. Based on Article 153 of the Indonesian Patent Law, this dispute can be resolved using two channels, namely the litigation route and the non-litigation route. The litigation route is dispute resolution carried out in court. Resolving related disputes through litigation involves filing a lawsuit in the Commercial Court. Meanwhile, non-litigation is for dispute resolution through Alternative Dispute Resolution (ADR). Alternative dispute resolution is divided into several methods, namely negotiation, mediation, conciliation and arbitration.[22]

Application of Law and Patent Protection in Singapore

Singapore is one of the many developed countries and has the strongest regime in terms of protecting intellectual property. In 2019, the World Economic Forum's Global Competitiveness Index ranked Singapore second for intellectual property protection. This high ranking is the result of the Singapore government's efforts to encourage technological development and intellectual property registration in the country as well as providing strong legal protection for registered intellectual property.[23]

Patent regulations in Singapore have undergone several changes. In the previous regulations, patent protection in Singapore was obtained by first receiving a patent grant from the United Kingdom (UK) and then registering it in Singapore

[22] Firda Ainun Fadillah and Saskia Amalia Putri, "Alternatif Penyelesaian Sengketa Dan Arbitrase (Literature Review Etika)," *Jurnal Ilmu Manajemen Terapan(JIMT)* 2, no. 6 (2021): 744–56.

[23] Rinaldo Dwi Putra, "Nongs Digital Park (NDP) Investment As A Cooperation in The Digital Sector Between Singapore and Indonesia in Batam," *Jurnal Ilmiah Kajian Keimigrasian* 4, no. 1 (2021): 83–96.

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under the Registration of United Kingdom Patents Ordinance.[24]These procedures and regulations are considered ineffective because they take money, time and energy. After consideration and consultation with legal experts, the patent system was finally revised on 23 February 1995 along with the Singapore Government's accession to the Paris Convention, the Patent Cooperation Agreement (PCT), and the Budapest Agreement. This revised patent system has two main points, namely self-assessment and optimization of existing resources by implementing regulations that benefit patent applicants both in terms of costs and labor. The patent system was finally revised on 23 February 1995 along with the Singapore Government's accession to the Paris Convention, the Patent Cooperation Treaty (PCT), and the Budapest Treaty. This revised patent system has two main points, namely self-assessment and optimization of existing resources by implementing regulations that benefit patent applicants both in terms of costs and labor. The patent system was finally revised on 23 February 1995 along with the Singapore Government's accession to the Paris Convention, the Patent Cooperation Treaty (PCT), and the Budapest Treaty. This revised patent system has two main points, namely self-assessment and optimization of existing resources by implementing regulations that benefit patent applicants both in terms of costs and labor.[25]

In 2013, the Singapore government launched the Intellectual Property Hub Master Plan, which is a 10-year roadmap to make Singapore a prime location for registering, maintaining and protecting intellectual property. As part of the plan, the Singapore government is proposing the introduction of the IP-Box Tax regime implemented by the Netherlands and Ireland. The Singapore government encourages the development and registration of intellectual property by providing generous financial incentives and tax provisions that benefit the public. An example is the Market Readiness Assistance (MRA) offered by International Enterprise Singapore to help finance Singapore-based companies expanding outside Singapore. This program provides funding of up to 70% of registration fees for eligible intellectual property-related activities.

The Intellectual Property Office of Singapore (IPOS) is a statutory body under the Ministry of Law that was established in 2001 to enforce policies in the field of

[24] Lu Sudirman and Hari Sutra Disemandi, "Comparing Patent Protection in Indonesia With That in Singapore and Hongkong," *Legality; Jurnal Ilmiah Hukum* 29, no. 2 (2021): 200–222.

[25] Hadi Kardoyo et al., *Kebijakan Paten Dalam Mendorong Aktivitas Inovasi Di Indonesia* (Jakarta: LIPI, 2011).

intellectual property. IPOS helps inventors, entrepreneurs and businesses create, protect and exploit innovation. Regarding patent rights, inventors can register patent rights directly or online. IPOS provides services related to intellectual property such as providing lawyers, consultants and providing free seminars. If a dispute or problem occurs during the registration process, IPOS also provides mediation services to resolve the dispute. Apart from encouraging the development of intellectual property, the Singapore government is also aggressively defending existing intellectual property rights.[26]

Intellectual property rights are territorial, meaning that if intellectual property is registered in Singapore, the rights will generally be retained in Singapore. The Singapore government considers the ability to resolve disputes fairly and efficiently to attract more development and registration of intellectual property, which could ultimately improve Singapore's economy. Therefore, the Singapore government implements a dispute resolution system through Litigation and Non-Litigation. The laws developed by the DPR and Judges were also drafted with attention and consideration to the protection of intellectual property rights.

The legal system in Singapore has an excellent international reputation for neutrality, efficiency and transparency. In 2002, Singapore established a Special Intellectual Property Court to handle increasingly complex intellectual property cases. In 2010, Singapore established the WIPO Arbitration and Mediation Center, which is the only WIPO Arbitration and Mediation Center besides Geneva. The collaboration between the Intellectual Property Office of Singapore (IPOS) and WIPO allows parties to resolve intellectual property disputes without going through lengthy court processes and wasting time and money on the parties involved.[27]

Singapore provides a comprehensive legal framework and adequate supporting infrastructure to protect patents, copyrights, trademarks and other types of intellectual property. Patent protection arrangements in Singapore are regulated by the Patents Act which is based on the British Patent Act 1977. Singapore patents are protected internationally under the Patent Cooperation Treaty (PCT).

Patents are valid for 20 years, as long as the patent owner can pay an annual renewal fee. Once a patent is registered, the inventor or patent holder can use, sell,

[26] Kulabutr Komenkul and Santi Kiranand, "Aftermarket Performance of Health Care and Biopharmaceutical IPOs: Evidence From ASEAN Countries," *Inquiry: The Journal of Health Care Organization, and Financing* 54 (2017).

[27] Kardoyo et al., *Kebijakan Paten Dalam Mendorong Aktivitas Inovasi Di Indonesia*.

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or license the patent. As written in Article 13 Paragraph (1) of the Patent Law (Chapter 221) concerning patentable inventions, an invention can be patented if the invention is new, inventive, and can also be applied in industry. A patent will not be granted if the invention violates public order. After the Patent regulations are revised, patent applicants no longer need to apply for a patent through England. Patents can be registered by filing a domestic application, or submitting an international application.

Applications can only be submitted by the applicant to the Patent Registry which is part of IPOS, in person or online. Meanwhile, international applications are submitted by applicants to several countries under the Patent Cooperation Treaty (PCT) through the Singapore Patent Registration Office as the receiving office. Regarding patent infringement, the court will determine by comparing the products or processes of an invention. An activity will not be considered an offense if it is carried out privately for non-commercial purposes, is carried out for experimental purposes, or is related to the manufacture of drugs. If a violation is found in the product of the invention or in the process of making the invention, the court can impose sanctions.[28]

Article 19 states that every person has the right to submit a patent application, either individually or jointly with another person or alliance. A patent for an invention can also be granted by the inventor to other parties based on statutory regulations, foreign treaties or international conventions, or based on the regulations applicable to an agreement made with the inventor. Unless otherwise specified, the person who submits a patent application is deemed to be the inventor or person who has the right to hold patent rights as intended in paragraph (2), and if there are 2 or more people who submit a patent application, then 2 or more people also obtain patent rights. . The Registrar of Patents has complete control over patent registration. Under the Patent Registrar there will be a Deputy Patent Registrar who also has the authority and functions of the Registrar according to the Patent Law. The Patent Registrar will determine whether a patent applicant is entitled to obtain a patent. After that, the patent applicant will be given a filing date and must submit a claim within 12 (twelve) months after the filing date. If the applicant does not submit a claim within this time, the application will be considered canceled. Once the applicant is notified with the filing date, files a claim, and pays the required fees, the

[28] Juan I Correa and Carlos M Correa, "Impact of The Patent Cooperation Treaty in Latin America," *Grur International* 69, no. 8 (2020): 803–8222.

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next procedure is a formal eligibility check to determine whether the patent meets the minimum requirements.

Once a patent is granted under Article 30 of the Patent Act (Chapter 221), the patent holder has the right to take legal action against any party who has infringed his patent. Patents and patent protection are territorial, meaning that the patent holder can only sue for valid patent infringement in the country where the patent is registered. Based on Article 66 (1) of the LawPatents, acts that constitute infringement are acts carried out without the consent of the patent owner. Furthermore, Article 66 (2) of the Patent Law also provides exceptions for acts that are not considered violations, namely: 1). Actions are carried out privately and non-commercially, 2). Actions aimed at trials, 3) Actions aimed at marketing pharmaceutical products outside Singapore, and 4) Parallel import of genuine products.

To determine whether an act constitutes patent infringement, the court will determine the scope of the patent and the main characteristics of the patent, then compare them with the product or process characteristics that are allegedly infringing. If the allegedly infringing product or process feature falls within the scope of protection provided by a patent, a court will determine that the action constitutes patent infringement. Based on Article 67 (1) of the Patent Law, there are several legal remedies in relation to patent infringement, namely: (1) Orders to stop the infringer from carrying out acts of patent infringement, (2) Orders to destroy a product. which infringes a patent, (3) Repairing losses incurred as a result of the infringement.[29]

In recent years, there has been an increase in patent litigation in Singapore due to the speed and quality of transparent court decisions, and relatively low costs. Since the enactment of the Patents Act in Singapore in 1995, law enforcement in the field of patents has become stronger. It should be noted that the patent registration system in Singapore uses a Self-Assessment system and the fact that no objections are allowed during the filing of a patent application in Singapore differentiates patent litigation in Singapore from other jurisdictions. Litigation or patent dispute resolution through court includes patent revocation, patent infringement, as well as additional issues such as non-infringement declaration claims, unfounded threats of infringement, and other issues. In addition, the patent revocation process can only

[29] Isabel Chng, "The Patent System in Singapore," *Elsevier* 24, no. 4 (2002): 297–302.

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be carried out at the Patent Office, namely the Intellectual Property Office of Singapore (IPOS).[30]

The revocation process as a defense to a claim for infringement can be carried out in the High Court. During the revocation process before IPOS, the patent holder may be accompanied or represented by a lawyer or legal expert in the field of patents. However, during the trial process at the High Court you can only be accompanied by a lawyer. The basis for patent revocation in Singapore is regulated in Article 80 (1) Patents Law (Chapter 221), where anyone can apply for revocation of a patent for the following reasons: (1) The patented invention is not a new invention, and has inventive steps, and cannot be applied in industry, (2) A patent is granted to someone who does not have the right to the patent, (3) The patent specification does not clearly and completely disclose the invention, (4) What is disclosed in the patent specification is different from the actual situation, (5) The protection given to the patent has been extended by amendment which should not be permitted, (6) The patent was obtained fraudulently or was obtained by misrepresentation, (7) The applicant did not notify or provided false information to the Registrar about details suitable for international registration.[31]

CONCLUSION

Indonesia and Singapore are countries that have ratified the Convention for the Establishment of the World Trade Organization, which contains the agreement on TRIPs, so they are required to comply and be ready to implement the contents of this international agreement. The application of patent law in Indonesia and Singapore has similar characteristics as well as significant differences. These two countries have almost the same definition of a patent, namely an exclusive right given by the state to an inventor as compensation for work in the field of intellectual property. The inventor has exclusive rights, moral rights, and also economic rights. In terms of patent registration in Indonesia and Singapore, the procedure is the same, namely fulfilling formal requirements, substantive examination, then the announcement stage. The patent protection period in Indonesia and Singapore is almost the same, namely 20 years from the filing date. In patent disputes there are two ways of resolution, namely litigation and non-litigation. Patents in Indonesia

[30] Deepak Somaya, "Strategic Determinants of Decisions Not to Settle Patent Litigation," *Strategic Management Journal* 24, no. 1 (2003): 17–38.

[31] Somaya.

and Singapore have other similarities, namely that they can be transferred and can be licensed. These two countries have the same basis, namely TRIPs, but the implementation in each country can be different. The development of sophisticated technology and the influence of technology has had a tremendous impact on a country.

REFERENCES

Ainun Fadillah, Firda, and Saskia Amalia Putri. "Alternatif Penyelesaian Sengketa Dan Arbitrase (Literature Review Etika)." *Jurnal Ilmu Manajemen Terapan(JIMT)* 2, no. 6 (2021): 744–56.

Chng, Isabel. "The Patent System in Singapore." *Elsevier* 24, no. 4 (2002): 297–302.

Devi Arta Adnyani, Kadek, I Nyoman Putu Budiartha, and Ni Made Puspasutari Ujianti. "Perlindungan Hukum Terhadap Penerima Lisensi Paten Dalam Alih Teknologi." *Jurnal Interpretasi Hukum* 1, no. 1 (2020): 24–29.

Dwi Putra, Rinaldo. "Nongs Digital Park (NDP) Investment As A Cooperation in The Digital Sector Between Singapore and Indonesia in Batam." *Jurnal Ilmiah Kajian Keimigrasian* 4, no. 1 (2021): 83–96.

ericson Siahaan, Boy. "Analisis Yuridis Hak Paten Sebagai Objek Jaminan Fidusia Di Indonesia Dan Sebagai Objek Jaminan Perbankan Di Singapura." *Jurnal Ilmu Abdi Ilmu* 14, no. 2 (2022): 352–65.

Erlina, and Melisa Safitri. "Analisis Komparasi Antara Perlindungan Paten Biasa Dengan Paten Sederhana Berdasarkan Undang-Undang Paten." *Pranata Hukum* 15, no. 1 (2020): 30–42.

Freddy Harris. *Modul Kekayaan Intelektual Paten*. Jakarta: Kementerian Hukum dan Hak Asasi Manusia Direktorat Jenderal Kekayaan Intelektual, 2020.

Gultom, Eva Veronica, and N.G.N Renti Maharaini Kerti. "Perbandingan Hukum Pengaturan Merek Non-Tradisional Antara Indonesia Dengan Singapura." *Tribuere* 1, no. 2 (2023): 120–27.

I Correa, Juan, and Carlos M Correa. "Impact of The Patent Cooperation Treaty in Latin America." *Grur International* 69, no. 8 (2020): 803–8222.

Indica Tampubolon, Theopita. "Wipo Copyright Treaty." *International Law Making* 6, no. 1 (2012): 138–52.

Jannah, Maya. "Perlindungan Huku Hak Kekayaan Intelektual (HAKI) Dalam Hak Cipta Di Indonesia." *Jurnal Ilmiah Advokasi* 06, no. 02 (2018): 55–72.

Kardoyo, Hadi, Setiowiji Handoyo, Budi Triyono, and Chichi Shintia Laksani. *Kebijakan Paten Dalam Mendorong Aktivitas Inovasi Di Indonesia*. Jakarta: LIPI, 2011.

Komenkul, Kulabutr, and Santi Kiranand. "Aftermarket Performance of Health Care and Biopharmaceutical IPOs: Evidence From ASEAN Countries." *Inquiry: The*

Journal of Health Care Organization, and Financing 54 (2017).

Makkawaru, Zulkifli, Kamsilaniah, and Almusawir. *Hak Kekayaan Intelektual Seri Hak Cipta, Paten, Dan Merek*. Sukabumi: Farha Pustaka, 2021.

Mastur. "Perlindungan Hukum Hak Kekayaan Intelektual DiBidang Paten." *Jurnal Ilmiah Ilmu Hukum Qisti* 6, no. 1 (2012): 65–81.

Muhammad Ardani, Alif. "Penghapusan Paten Terdaftar Di Indonesia: Perkembangan Dan Penyebabnya." *Undang: Jurnal Hukum* 2, no. 1 (2019): 147–68.

Palupi Kurnianingrum, Trias. "Hak Kekayaan Intelektual Sebagai Jaminan Kredit Perbankan Intellectual (Propertu As Banking Credit Guarantee)." *Jurnal Hukum* 8, no. 1 (2017): 31–54.

Setiady, Tri. "Harmonisasi Prinsip-Prinsip Trips Agreement Dalam Hak Kekayaan Intelektual Dengan Kepentingan Nasional." *Fiat Justisia: Jurnal Ilmu Hukum* 8, no. 4 (2014): 595–613.

Setyo Wahyudi, Hendro. "Teknologi Dan Kehidupan Masyarakat." *JAS; Jurnal Analisa Sosiologi* 3, no. 1 (2014): 13–24.

Somaya, Deepak. "Strategic Determinants of Decisions Not to Settle Patent Litigation." *Strategic Management Journal* 24, no. 1 (2003): 17–38.

Sudirman, Lu, and Hari Sutra Disemandi. "Comparing Patent Protection in Indonesia With That in Singapore and Hongkong." *Legality; Jurnal Ilmiah Hukum* 29, no. 2 (2021): 200–222.

Tim Lindsey. *Hak Kekayaan Intelektual Suatu Pengantar Cet.4*. Bandung: Alumni, 2005.

Yodo, Sutarman. "Perlindungan Hak Paten (Studi Komparatif Lingkup Perlindungan Di Berbagai Negara)." *Fiat Justisia: Jurnal Ilmu Hukum* 10, no. 04 (2016): 697–714.

Yona Sidratul Munti, Novi, and Dwi Asril Syarifuddin. "Analisa Dampak Perkembangan Teknologi Informasi Dan Komunikasi Dalam Bidang Pendidikan." *Jurnal Pendidikan Tambusi* 4, no. 2 (2020): 1799–1805.