

**LAW OF THE REPUBLIC OF INDONESIA
NUMBER 31 OF 2000
CONCERNING INDUSTRIAL DESIGNS**

Considering:

- (a) that in the efforts to promote the industry in order to have ability to compete in the national and international trade, it is necessary to create the climate that encourages the creations and innovations of the public in the field of Industrial Design as a part of the Intellectual Property Rights system;
- (b) that the foregoing issue is also encouraged by the highly diverse cultural and ethnic riches of the Indonesian nation that make the sources for Industrial Design development;
- (c) that Indonesia has ratified the Agreement Establishing the World Trade Organization that comprises the Agreement on Trade Related Aspects of Intellectual Property Rights (Agreement on TRIPs) under Law Number 7 of 1994 and ruling on Industrial Design will accordingly be necessary;
- (d) that based on the considerations as described in items (a), (b), and (c), it is deemed necessary to enact the Law of Industrial Designs.

In view of:

- (1) Article 5 paragraph (1), Article 20, and Article 33 of 1945 Constitution of the Republic of Indonesia;
- (2) Law Number 5 of 1984 concerning Industry (State Gazette of the Republic of Indonesia of 1984 Number 22, Supplement of the State Gazette of the Republic of Indonesia Number 3274);
- (3) Law Number 7 of 1984 concerning the Ratification of the Agreement Establishing the World Trade Organization (State Gazette of the Republic of Indonesia of 1994 Number 57, Supplement of the State Gazette of the Republic of Indonesia Number 3564).

With the endorsement of the People's Representative Assembly of the Republic of Indonesia it has been decided to declare the effectiveness of the Law of Industrial Designs.

Chapter I - General

Article 1

For the purpose of this Law, the following shall mean as defined:

- (1) Industrial Design is a creation of a shape, configuration or composition of lines or colors, or a combination of both in a three-dimensional or two-dimensional form that produces an aesthetic impression and that may be exposed in a three-dimensional or a two-dimensional pattern and that may be used for making a product, goods, industrial commodity, or handicraft item.
- (2) Designer is a person or a number of persons who create an Industrial Design.
- (3) Application is an application for the registration of an Industrial Design addressed to the Directorate General.
- (4) Applicant is the party making an application.
- (5) Industrial Design Right is the exclusive right granted by the state of the Republic of Indonesia to the Designer for his/her/their works which he/she/they can in a specified time exercise himself/herself/ themselves or agree the exercising thereof by another party.
- (6) Minister is the Minister whose ministry has the tasks and responsibilities including the administration of Intellectual Property Rights including Industrial Designs.
- (7) Directorate General is the Directorate General of Intellectual Property Rights in the ministry headed by the Minister.
- (8) Attorney is a Consultant of Intellectual Property Rights as provided in this Law.
- (9) Receipt Date is the date an Application which has fulfilled the administrative requirements is received.
- (10) Consultant of Intellectual Property Rights is a person who is knowledgeable on Intellectual Property Rights and who exclusively offers his/her services in getting through with the application for Patent, Trade Mark, Industrial Design and other items of the Intellectual Property Rights and is registered as an Intellectual Property Right Consultant with the Directorate General.
- (11) License is the permit granted by an Industrial Design Right holder to another party in an agreement based on a granting of right (not an assignment of right) to get the economic benefits of an Industrial Design that is protected in a specified time and under specified conditions.
- (12) Priority Right is the right of the Applicant to submit an Application that comes from a country that has signed the Paris Convention to get the acknowledgment that the Receipt

Date to the country of destination, which is also a member of the Paris Convention or the Agreement Establishing the World Trade Organization, is of the same date as the Receipt Date recorded in the country of origin for a specified period of time determined on the basis of the Paris Convention.

(13) Day is Working Day.

Elucidation: As a developing country, Indonesia should promote its industrial sector in order to increase its ability to compete. One aspect of that contributes to the ability to compete is the utilization of the role of Industrial Design that makes a part of Intellectual Property Right. The diverse culture, accompanied by the efforts to participate in globalization of trade, by giving proper protection to Industrial Designs will contribute to accelerating the growth of the national industry.

In connection with trade globalization, Indonesia has ratified the Agreement Establishing the World Trade Organization that comprises the Agreement on Trade Related Aspects of Intellectual Property Rights (Agreement on TRIPs) under Law Number 7 of 1994. The ratification of these Agreements supported the ratification of the Paris Convention for the Protection of Industrial Property (Paris Convention) under Presidential Decree Number 15 of 1997 and the participation of Indonesia in the Hague Agreement (London Act) Concerning the International Deposit of Industrial Designs. In considerations of all these and in view of the fact that legal protection of Industrial Designs has not been provided for, it is deemed necessary that Indonesia enact a law of Industrial Designs that will protect the rights of Designers and to set forth their rights and obligations, and to assure that their works as Industrial Design Rights shall not be inappropriately utilized by other parties.

Besides actualizing the commitment to the Agreement on TRIPs the proposed ruling on Industrial Designs is expected to serve as a basis for an effective protection against various forms of widely reported duplications, pirating, and or imitation of Industrial Designs. The principles of the rulings thereof are acknowledgment of intellectual property rights of the works produces an aesthetic impression and that may be produced repetitively and may produce goods of two-dimensional or three-dimensional forms.

Legal protection to Industrial Design Rights is meant to encourage creative activities of the Designers to keep on creating new works. It is in the efforts to create the climate that will encourage the creation of new designs while ensuring the legal protection thereof that this law of Industrial Designs has been prepared. The protection of Industrial Design Rights will be provided by the Republic of Indonesia if these are requested through registration by the Designers or the legal entities that have the rights to the Industrial Designs.

To give the understanding to the general public, particularly regarding the Intellectual Property Right that is closely related to the definition of Industrial Designs, it is deemed necessary to give explanations on the differences between the items covered by the Intellectual Property Right, particularly the differences between Copyright, Patent and Industrial

Design. Designer (as the subject of Copyright) is a person or a number of persons who by inspirations create the work of science, the arts, and literature. Inventor (as subject of Patent) is a person who individually or jointly conduct an activity for finding a solution of a particular subject in technology in the form of a process or production. Designer is a person or a number of persons who create an Industrial Design in a form of shape, configuration or composition (composition of lines or colors or both lines and colors) or a combination of both in a three-dimensional or two-dimensional form that produces an aesthetic impression and that may be exposed a three-dimensional or a two-dimensional pattern and that may be used for making a product, goods, industrial commodity, or handicraft item.

In the process of registration of an Industrial Design, such as in with Patent, an inspection is conducted by the inspector while the Copyright does not require inspection system.

In the inspection of an application for an Industrial Design right the principle is recognition to what is new and the first registered. The principle of being new in the Industrial Designs is distinguished from the principle or originality as applied in Copyright. The assignment of "new" and "newness" is determined at the registration that is first applied and at the time the registration is made, with no other parties able to prove that the particular registration is not new or it has been exposed/publicized before, in writing or otherwise. "Original" means something that comes directly from the source, that is, the person who has made or created a thing that is directly exposed by a person who is able to prove the original source thereof.

Further, the principle of first registration means that the person who first applies for the right to an Industrial Design is the person who gets the legal protection instead of the person who first designed the object. Furthermore, for the purpose of publication or promulgation of application for registration of rights to Industrial Designs, the examination thereof are also classified by the applications in accordance with the prevailing regulations.

For the registration of Industrial Design Rights, the government has now assigned the Ministry of Justice and Human Rights Affairs, q.q., Directorate General of Industrial Designs to undertake the services. In view of the extensive tasks and responsibilities in these affairs, it is potential that the Directorate General in charge of Intellectual Property Rights will in the future become an independent unit of the administration, including the financial administration of the affairs.

Chapter II - Scope of Industrial Design

PART ONE – INDUSTRIAL DESIGNS THAT GET PROTECTION

Article 2

- (1) Industrial Design Rights shall be granted to new Industrial Designs.
- (2) An Industrial Design shall be determined new if the particular Industrial Design is at the Receipt Date not the same as the already existing exposes.
Elucidation: "Expression" here means expression through the printed or electronic mass media, including participation in an exhibition.
- (3) The existing expressions referred to in paragraph (2) shall be the Industrial Design expressions before:
 - (a) the Receipt Date or
 - (b) the priority date if the Application is made under Priority Right.has been promulgated or has been used in outside Indonesia

Article 3

An Industrial Design shall not be deemed already promulgated in a period of no longer than six (6) months before the Receipt Date the particular Industrial Design:

- (a) has been shown in an official or officially-recognized national or international exhibition in Indonesia or overseas; or
Elucidation: "Official exhibition" here means the exhibition organized by the government, while the "officially-recognized exhibition" means the exhibition organized by the public and recognized or approved by the Government.
- (b) has by the Designer been in use in Indonesia in an experiment for educational, research or development purposes.

PART TWO – INDUSTRIAL DESIGNS THAT DO NOT GET PROTECTION

Article 4

An Industrial Design Right shall not be issued if the Industrial Design is against the prevailing laws and regulations, public order, religions, or morality.

PART THREE – PERIOD OF AN INDUSTRIAL DESIGN PROTECTION

Article 5

- (1) A Protection of an Industrial Design Right shall be valid for a period of ten (10) years as from the Receipt Date.
- (2) The date the protection becomes valid as referred to in paragraph (1) shall be recorded in the Industrial Design General Registry and be promulgated in the Industrial Design Official Bulletin. "Industrial Design General Registry" is the means of collecting the registrations in the Industrial Designs containing records of the right holders, types of designs, dates the applications are received, the registration dates, and other information regarding the assignment (if an assignment has been made).

Elucidation: "Industrial Design Official Bulletin" is the medium for information to the public in the form of official publication, published periodically containing the matters required under this Law.

PART FOUR – SUBJECTS OF INDUSTRIAL DESIGNS

Article 6

- (1) An Industrial Design Right shall be granted to the Designer or the party that obtains such right from the Designer.
- (2) If the Designer consists of a number of persons jointly, the Industrial Design Right shall be granted to them jointly, except otherwise agreed on.

Article 7

- (1) If an Industrial Design has been prepared in an official relation in an employment relationship, the Industrial Design Right shall be granted to the party for whom and/or on the official relationship the Industrial Design is prepared for, except there is an agreement between both parties without prejudice to the rights of the Designer if the Industrial Design is extended beyond the employment relationship.

Elucidation: "Official relation" means employment relationship between the government employees and their respective agencies.

- (2) The provision referred to in paragraph (1) also applies to the Industrial Designs prepared by other people based on an order in an official relation.

Elucidation: This provision is meant to confirm the principle that the Rights to Industrial Designs prepared by a person on an order by, for instance, a government agency, is held by the concerned government agency as the principal, except otherwise agreed. This is without prejudice to the right of the Designer to claim his/her/their rights if the Industrial Design is used beyond the official relation.

- (3) If an Industrial Design is prepared in an employment relationship or based on an order, the person preparing the Industrial Design shall be regarded the Designer and Industrial Design Right holder, except otherwise agreed on by both parties.

Elucidation: "Employment relationship" here means an employment relationship in the private sector, or a relation produced by an order of an Industrial Design by private sector organizations or in individual relationships with the Designer.

Article 8

The provisions referred to in Article 7 paragraphs (1) and (2) shall not preclude the right of the Designer to get his/her/their name mentioned in the Industrial Design Certificate, Industrial Design General Registry, and Industrial Design Official Bulletin.

Elucidation: The name of the Designer put in the Industrial Design General Registry and the Industrial Design Official Bulletin is a common rule in the Intellectual Property Right. This is called the moral right.

PART FIVE – SCOPE OF THE RIGHT

Article 9

- (1) The Industrial Design holder shall have the exclusive right to exercise the Industrial Design Right he/she/ they holds and to prohibit other people to without his/her/their consent make, use, sell, import, export, and/or distribute the goods assigned with the Industrial Design Right. Exclusive right is the right only granted to the Industrial Design Right holder to in a specified period of time exercise himself/herself/themselves or license the use of his/her/their right to another party. Accordingly, no other parties may exercise the Industrial Design Right without the consent of the holder. The right may be transferred to another party through inheritance, bequest, will and testimony, agreement, or other processes.
- (2) An exception of the provision referred to in paragraph (1) shall be the use of an Industrial Design for research and educational purposes as long as these do not adversely affect the appropriate interests of the Industrial Design Right holder.

Elucidation: The use here is meant the use only for research and educational purposes, including research and development purposes. However, this should not adversely affect the appropriate interests of the Designer. "Appropriate interests" are the use for educational and research purposes in general but not in the use of the Industrial Design Right as referred to in paragraph (1). In the field of education, for instance, the appropriate interests of the Designer will be adversely affected if the Industrial Design is used for all the educational institutions in the city. The criteria of interests are determined merely on whether there are commercial interests therein but the quantity of the use.

Chapter III - Application for Registration of an Industrial Design

PART ONE - GENERAL

Article 10

An Industrial Design Right is issued upon an Application therefore.

Article 11

- (1) The Application shall be made in writing in Indonesian language to the Directorate General by paying the charge therefor as provided under this Law.
- (2) The Application referred to in paragraph (1) shall be signed by the Applicant or his/her/their Attorney.
- (3) An Application shall contain the following information:
 - (a) date, month, and year of the Application;
 - (b) full name, address and citizenship of the Designer;
 - (c) full name, address and citizenship of the Applicant;
 - (d) full name and address of the Attorney if the application is made through an Attorney;
and
 - (e) name of country and receipt date of the first application if the Application is made under a Priority Right.
- (4) The application referred to in paragraph (3) shall be attached with:
 - (a) the physical sample or picture or photograph and descriptions of the Industrial Design being applied for registration;

Elucidation: If the physical form of the Industrial Design being registered is too big, it is sufficient if the design is presented in pictures taken from various angles.

- (b) the special power of attorney if the Application is made through an Attorney;
 - (c) a written statement declaring that the Industrial Design being applied for registration is the property of the Applicant or the property of the Designer.
- (4) If the application is being made jointly by more than one Applicants, the Application shall be signed by an Applicant attaching thereto the written consent of the other Applicants.
- (5) If the Application is being made by a person other than the Designer, the Application shall be accompanied by sufficient evidence that the Applicant has the right to the particular Industrial Design.
- (6) The procedures of the Application shall be further provided in a Government Regulation. "Sufficient evidence" here means valid, accurate and adequate evidence that determine the Applicant is the true subject to make the Application.

Article 12

The party who first makes the Application shall be named the Industrial Design Right holder, except it is otherwise proven. "Except otherwise proven" here is the manifestation of the principles of good faith observed in the legal system of Indonesia.

Article 13

Each Application shall be made only for:

- (a) an Industrial Design, or
- (b) a number of Industrial Designs that make up a unity of an Industrial Design or that belong to the same class.

Elucidation: "an Industrial Design" means an individual unit of an Industrial Design. However, a set of cups and pots, for instance, is a single Industrial Design. A "class" is the class as provided in the International Classification of Industrial Designs as provided in the Locamo Agreement. Though Indonesia has not become a member of this convention, in practice it has been using the provisions of this convention as the major reference for investigation.

Article 14

- (1) An Applicant whose residence is outside the territory of the Republic of Indonesia shall make the Application through an Attorney.

Elucidation: In principle, the Application may be made by the Applicant himself/herself/ themselves. An Applicant residing overseas shall make the Application through an Attorney for smooth process of the Application, as the use of Indonesian language the Application has to be made in. Besides, by using the Attorney (who is Indonesian) the requirements of the legal domicile of the Applicant will be properly determined.

- (2) The Applicant as referred to in paragraph (1) shall state and choose his/her/their domicile in Indonesia.

Article 15

The requirements for appointment as Intellectual Property Right Consultant shall be provided in a Government Regulation and the procedures of the appointment thereof shall be provided in a Presidential Decree.

PART TWO – APPLICATION WITH A PRIORITY RIGHT

Article 16

- (1) An Application using the Priority Right shall be made no later than six (6) months after the receipt date of the first application in the other country that is a member of the Paris Convention or the Agreement Establishing the World Trade Organization.
- (2) The Application under the Priority Right referred to in paragraph (1) shall be accompanied by the priority document endorsed by the office that administers Industrial Design registrations and the translation thereof in the Indonesian language no later than three (3) months as from the expiry of the period for Application under the Priority Right.
- (3) If the requirements referred to in paragraphs (1) and (2) are not fulfilled, the Application shall be deemed to be made without using the Priority Right.

Article 17

Beside a copy of the Application referred to in Article 16 paragraph (2), the Directorate General may require that an Application using the Priority Right be accompanied with:

- (a) complete copy of the Industrial Design Right already granted following the first registration thereof in the other country; and

Elucidation: "Complete copy" here means the copy of all the documents required for the registration based on the laws of the concerned country.

- (b) valid copy of other documents required to facilitate the evaluation for determining that the particular Industrial Design is actually new.

Elucidation: "Valid copy" here means the copy legally certified as true and accurate copy thereof.

PART THREE – APPLICATION RECEIPT PERIOD

Article 18

The Receipt Date shall be the date the Application is received on the conditions that the Applicant has:

- (a) completed the Application form;
(b) attached the physical sample or picture or photo and descriptions of the Industrial Design being applied for registration; and
(c) paid the Application charge as provided in Article 11 paragraph (1).

Elucidation: This requirement is minimum requirement meant to make it easier for the Applicant to obtain the Receipt Date as defined previously. This date determines the moment the period for the protection of the Industrial Design begins.

Article 19

- (1) In the case of insufficiency in the fulfillment of the requirements of the Application as referred to in Article 11, Article 13, Article 14, Article 15, Article 16 and Article 17, the Directorate General shall notify the Applicant or his/her/their Attorney of the insufficiency and request that the Application fulfill the requirements in three (3) months as from the date such written notification of the insufficiency is sent.

Elucidation: The period of three (3) months given to the Applicant to arrange things to fulfill the requirements starts from the date the notification is made, instead of the date the notice is received by the Applicant. The dispatch record may be postal stamp, dispatch document, or other valid proof of the dispatch.

- (2) The period of time referred to in paragraph (1) may at the request of the Applicant be extended by a period of no longer than one (1) month.

Article 20

- (1) If the insufficiency as referred to in Article 19 paragraph (1) is not corrected, the Directorate General shall notify the Applicant or his/her/their Attorney in writing that the Application has been concluded revoked.
- (2) In the case the Application has been concluded revoked as referred to in paragraph (1), all the charges already paid to the Directorate General shall not be compensated.

Elucidation: The money paid to the Directorate General may not be withdrawn regardless of whether the Application is accepted, rejected or revoked.

PART FOUR – REVOCATION OF AN APPLICATION

Article 21

The revocation of an Application may be made in writing by the Applicant or his/her/their Attorney to the Directorate General as long as the Application is still pending a decision.

Elucidation: "Pending a decision" is an Application that has not been registered in the Industrial Design General Registry.

PART FIVE – NON-DISCLOSURE

Article 22

The officials or those whose duties make them serve and/or act in the name of the Directorate General shall not during their service period and a period of twelve (12) months after their retirement, make applications, obtain, hold, or possess properties with respect to Industrial Designs except such property is obtained as an inheritance.

Article 23

As from the Receipt Date, all the officials of the Directorate General or those whose duties require them to work for and/or to act in the name of the Directorate General shall keep the secrecy of the Application through the promulgation thereof.

Chapter IV - Inspection of Industrial Designs

PART ONE – ADMINISTRATIVE INSPECTIONS

Article 24

- (1) The Directorate General shall conduct inspections of Applications in accordance with the prevailing laws and regulations. "Inspection" here means formality check with respect to fulfillment of administrative requirements of the Application as meant in Article 11. Besides, for the promulgation of Applications, the Directorate General make classifications and inspect the aspects which are deemed unclear or improper if a particular Application is promulgated.
- (2) The Directorate General shall notify the Applicant of a decision of rejection of the Application if the Industrial Design being registered fails to fulfill the criteria referred to in Article 4 or concludes that an Application is revoked due to the failure to fulfill the requirements provided in Article 20.
- (3) The Applicant or his/her/their Attorney shall be given the opportunity to file a complaint of the decision of rejection or the conclusion of revocation as described in paragraph (2) in a period of no later than thirty (30) days as from the date of the receipt of the letter of rejection or notice of conclusion of revocation.

Elucidation: This provision is meant to give the Applicant the opportunity to correct the Industrial Design, such as removing the parts that are against the morality.
- (4) If the Applicant does not file a complaint as referred to in paragraph (3), the Directorate General's decision if a rejection or conclusion revocation as referred to in paragraph (2) shall become permanent.
- (5) On the Directorate General's decision of rejection or conclusion of revocation, the Applicant or his/her/ their Attorney may file a claim thereof to the Commercial Court in the procedure as provided in the prevailing laws and regulations.

PART TWO – ANNOUNCEMENT, SUBSTANTIVE INSPECTION, GRANTING AND REJECTION

Article 25

- (1) An Application that fulfills the requirements as referred to in Article 4 and Article 11 shall be promulgated by the Directorate General by placing it in the facilities provided therefor that shall be easily seen by the general public in a period of no longer than three (3) months as from the Receipt Date.

Elucidation: "Promulgated" here means making the information known by the general public through the media of Industrial Design Official Bulletin. This promulgation may later be made through other media.

- (2) The promulgation referred to in paragraph (1) shall contain the following information:
 - (a) full name and address of the Applicant;
 - (b) full name and address of the Attorney if the Application is submitted through an Attorney;
 - (c) date and number of receipt of the Application;
 - (d) name of country and receipt date of the first application if the Application is made under a Priority Right.
 - (e) title of the Industrial Design; and
 - (f) picture of photo of the Industrial Design.
- (3) If an Application has been rejected or has been concluded revoked, but is later registered on the basis of the court decision, the promulgation referred to in paragraph (1) and paragraph (2) shall be made after the Directorate General has received the copy of such decision. "Court decision" here means the court decision that has become legally permanent.
- (4) The Applicant may upon submission of the Application request in writing that the promulgation thereof be postponed. This provision is meant to give the Applicant the opportunity to postpone the process for his/her/their interests.
- (5) The postponement of the promulgation as referred to in paragraph (4) shall not be longer than twelve (12) months as from the Receipt Date or as from the priority date.

Elucidation: "Priority Date" here means the date the application for registration is first made in the origin country.

Article 26

- (1) Starting from the date the promulgation is made as provided in Article 25 paragraph (1), any party may file a complaint in writing that includes substantive issues to the Directorate General by paying the charge therefor as provided under this Law.
- (2) The filing of a complaint as referred to in paragraph (1) shall have been received by the Directorate General no later than three (3) months as from the date the promulgation period starts.
- (3) The complaint referred to in paragraph (2) shall be notified by the Directorate General to the Applicant.
- (4) The Applicant may make a denial of the complaint as referred to in paragraph (2) in no later than three (3) months as from the date the notice by the Directorate General is sent.

- (5) In the case of a complaint of an Application as referred to in paragraph (1), the investigator shall conduct a substantive investigation thereof.

Elucidation: "Substantive inspection" here is an inspection of an Application based on Article 2 and Article 4 to determine the newness of the object being registered, that may be made by means of the available reference. Substantive inspection shall be conducted by an "inspector" who is an expert especially trained and appointed for conducting such tasks. An inspector of Industrial Designs as the "inspectors" in the other fields of Intellectual Property Right are assigned the status as functional official for the skills they possess and the specialty of their tasks. This status is meant to facilitate development and to provide incentives to the inspectors.

- (6) The Directorate General shall use the complaint or denial filed to them as material in the investigation for deciding whether the particular Application shall be accepted or otherwise rejected.
- (7) The Directorate General shall decide whether a complaint as referred to in paragraph (1) is accepted or rejected in no later than six (6) months as from the validity of the promulgation period as referred to in paragraph (2).
- (8) The decision of the Directorate General as referred to in paragraph (7) shall be notified in writing to the Applicant or his/her/their Attorney in no later than thirty (30) days as from the date such decision is made.

Article 27

- (1) The investigator as referred to in Article 26 paragraph (5) shall be an official with the Directorate General who has the position as a functional official, who is appointed and discharged by the Minister.
- (2) The Investigator shall be given functional career path and allowance in accordance with the prevailing laws and regulations.

Article 28

- (1) The Applicant whose Application is rejected may file a complaint thereof to the Commercial Court in no later than three (3) months as from the date the notification as referred to in Article 26 paragraph (8) is sent, in the procedure provided in this Law.
- (2) On a rejection of an Application as referred to in Article 2 and Article 4, the Applicant may file a complaint thereof in writing to the Directorate General giving the reasons therefor.

- (3) If the Directorate General finds the Application fails to fulfill the requirements in Article 4, the Applicant may file a complaint of the rejection of the Directorate General to the Commercial Court in the procedure provided in this Law.

Article 29

- (1) If no complaints are filed of an Application through the period provided for filing a complaint as referred to in Article 26 paragraph (2), the Directorate General shall issue and grant the Industrial Design Certificate in no later than thirty (30) days as from the date the said period expires.
- (3) The Industrial Design Certificate shall become valid as from the Receipt Date.

Article 30

- (1) The party who requires the copy of the said Industrial Design Certificate may request thereof to the Directorate General by paying the charge thereof as provided in this Law. "Copy" here means the copy containing information of the Industrial Design, including the Designer's name, the right holder and/or the Attorney of the Industrial Design.
- (2) The provisions on the requirements and procedure of issuing the copy of the Industrial Design Certificate shall be determined in a Presidential Decree.

Chapter V - Assignment and License

PART ONE - ASSIGNMENT

Article 31

- (1) An Industrial Design Right may be assigned or transferred through:
 - (a) an inheritance;
 - (b) a bequest;
 - (c) a will and testimony;
 - (d) a written agreement; or
 - (e) other process acceptable by the prevailing laws and regulations.

Elucidation: "Other process" here means, amongst others, the court decision regarding bankruptcy.

- (2) An assignment of an Industrial Design as referred to in paragraph (1) shall be accompanied by the document evidencing the assignment.
- (3) The assignment of an Industrial Design Right as referred to in paragraph (1) shall be recorded in the Industrial Design General Registry with the Directorate General by paying the charge thereof as provided in this Law.
- (4) An assignment of an Industrial Design Right that has not been recorded in the Industrial Design General Registry shall not have a legal effect on the third party.
- (5) The assignment of an Industrial Design Right as referred to in paragraph (3) shall be promulgated in the Industrial Design Official Bulletin.

Article 32

The assignment of an Industrial Design Right shall not preclude the right of the Designer to get his/her/their name or identity be mentioned in the Industrial Design Certificate and in the Industrial Design Official Bulletin as well as in the Industrial Design General Registry.

PART TWO – LICENSES

Article 33

An Industrial Design Right holder shall have the right to License other parties under a License agreement to exercise all the acts referred to in Article 9, except otherwise agreed.

Article 34

Without prejudice to the provision of Article 33, an Industrial Design Right holder reserves the right to exercise himself/herself/themselves or to License a third party to exercise the acts referred to in Article 9, except otherwise agreed.

Article 35

- (1) A License agreement shall be recorded in the Industrial Design General Registry and charged a cost as provided in this Law.

Elucidation: What "shall be recorded" here means the License agreement itself in the form agreed by both parties, including the content of the License agreement as provided in this Law.

- (2) A License agreement that is not recorded in the Industrial Design General registry shall not apply to a third party.
- (3) The License agreements as referred to in paragraph (1) shall be promulgated in the Industrial Design Official Bulletin.

Article 36

- (1) A License agreement shall not contain any provisions that may adversely affect the economy of Indonesia, nor contain any provisions that may create unhealthy competition as provided in the prevailing laws and regulations.

Elucidation: This provision is designed to protect the state from potentially particular effects of the License agreement.

- (2) The Directorate General shall reject the recording of License agreements that contain provisions as referred to in paragraph (1).
- (3) Provisions on the recording of License agreements shall be determined in a Presidential Decree.

Chapter VI - Cancellation of Industrial Design Registrations

PART ONE – CANCELLATION OF REGISTRATIONS ON THE REQUEST OF THE INDUSTRIAL DESIGN RIGHT HOLDER

Article 37

- (1) A registered Industrial Design may be cancelled by the Directorate General at the written request of the Industrial Design Right holder.
- (2) The cancellation of an Industrial Design Right as referred to in paragraph (1) shall not be effected if the Licensee of an Industrial Design Right recorded in the Industrial Design General Registry does not give a written consent thereof attached to such request for registration cancellation. This provision is designed to protect the Licensee who has paid royalty to the Licensor.

- (3) A decision of cancellation of an Industrial Design Right shall be notified in writing by the Directorate General to:
 - (a) the Industrial Design Right holder;
 - (b) the Licensee if already licensed as recorded in the Industrial Design General Registry;
 - (c) the party requesting the cancellation by notifying that the Industrial Design Right already granted is no longer valid as from the date of the cancellation decision.
- (4) A decision of registration cancellation as referred to in paragraph (1) shall be recorded in the Industrial Design General Registry and be promulgated in the Industrial Design Official Bulletin.

PART TWO – CANCELLATION OF REGISTRATIONS BASED ON COMPLAINTS

Article 38

- (1) A complaint on a registration of an Industrial Design may be filed by the concerned party to the Commercial Court on the reasons as referred to in Article 2 or Article 4 hereto.
- (2) The decision of the Commercial Court as referred to in paragraph (1) concerning cancellation of Industrial Design Right registration shall be forwarded to the Directorate General no later than fourteen (14) days as from the date the decision is made.

PART THREE – PROCEDURE OF THE COMPLAINT

Article 39

- (1) A complaint for the cancellation of an Industrial Design registration shall be filed to the Chief of the Commercial Court whose area of jurisdiction covers the residence or the domicile of the defendant.
- (2) If the defendant resides outside the territory of Indonesia, the complaint shall be filed to the Chief of Commercial Court of Central Jakarta.
- (3) The registrar shall record the complaint for cancellation on the date the complaint is made and the plaintiff shall receive a written receipt thereof signed by the registrar bearing the date similar to the complaint registration date.

Elucidation: Except otherwise provided, "registrar" here means the registrar of the District Court/Commercial Court.

- (4) The registrar shall forward the complaint for cancellation to the Chief of Commercial Court in no longer than two (2) days as from the date the complaint is filed.
- (5) The Commercial Court shall in no longer than three (3) days as from the date the complaint for cancellation is filed, examine the complaint for cancellation and determine the court session.
- (6) The court session of a complaint for cancellation shall be conducted no later than sixty (60) days as from the date the complaint is filed.
- (7) The summons to the parties shall be made by the bailiff no later than seven (7) days as from the complaint for cancellation is filed.

Elucidation: "Bailiff" here means the bailiff with the District Court/Commercial Court.

- (8) The decision of a complaint for cancellation shall be made no later than ninety (90) days as from the complaint is filed and is extendable for no longer than thirty (30) days on an approval of the Chief of Supreme Court.
- (9) The decision on a complaint for cancellation as referred to in paragraph (8) that contains the full legal considerations that make the basis of the decision shall be pronounced at the court open to public and may be conducted before, though a legal action is taken of the decision.
- (10) A copy of the decision of the Commercial Court as referred to in paragraph (9) shall be delivered by the bailiff to the parties no later than fourteen (14) days as of the decision of complaint for cancellation is pronounced.

Article 40

Only an appeal of 'kasasi' (appeal to the supreme court) may be filed of the decision of the Commercial Court as referred to in paragraph (2).

Article 41

- (1) An appeal of 'kasasi' as referred to in Article 40 shall be filed no later than fourteen (14) days as from the date the decision being appealed is pronounced or notified to the parties by registering it to the registrar that has decided the particular complaint.
- (2) The registrar shall record the appeal of 'kasasi' on the date the appeal of 'kasasi' is filed, and the appellant shall receive a written receipt thereof signed by the registrar bearing the date similar to the appeal of 'kasasi' registration date.

- (3) The appellant shall forward a memorandum of appeal of 'kasasi' to the registrar in no longer than fourteen (14) days as from the appeal of 'kasasi' is registered as referred to in paragraph (1).
- (4) The registrar shall forward the appeal of 'kasasi' and the memorandum of appeal of 'kasasi' as referred to in paragraph (3) to the appellee in no longer than two (2) days as from the registration of the appeal of 'kasasi'.
- (5) The appellee may file a contra-memorandum of appeal of 'kasasi' to the registrar no later than seven (7) days as from the receipt of the memorandum of appeal of 'kasasi' by the appellee as referred to in paragraph (4) and the registrar shall forward the contra-memorandum of appeal of 'kasasi' to the appellant no later than two (2) days as from the receipt of the contra-memorandum of appeal of 'kasasi'.
- (6) The registrar shall deliver the appeal of 'kasasi', memorandum of appeal of 'kasasi' and/or contra-memorandum of appeal of 'kasasi' and the related proceedings to the Supreme Court no later than seven (7) days as from the lapse of the period as referred to in paragraph (5).
- (7) The Supreme Court shall examine the memorandum of appeal of 'kasasi' and determine the court session day no later than two (2) days as from the date the appeal of 'kasasi' is receipt by the Supreme Court.
- (8) The session for the examination of an appeal of 'kasasi' shall be no longer than sixty (60) days as from the date the appeal of 'kasasi' is received by the Supreme Court.
- (9) The decision of an appeal of 'kasasi' shall be pronounced no later than ninety (90) days as from the date the appeal of 'kasasi' is received by the Supreme Court.
- (10) The decision on an appeal of 'kasasi' as referred to in paragraph (9) that contains the full legal considerations that make the basis of the decision shall be pronounced at the court open to public.
- (11) The registrar of the Supreme Court shall deliver the decision on the appeal of 'kasasi' to the registrar no later than three (3) days as from the date the decision on the appeal of 'kasasi' is pronounced.
- (12) The bailiff shall deliver a copy of the decision on the appeal of 'kasasi' as referred to in paragraph (11) to the appellant and the appellee no later than two (2) days as from the receipt of the decision on the appeal of 'kasasi'.

Article 42

The Directorate General shall record the decision on the complaint for cancellation that has become legally permanent in the Industrial Design General Registry and promulgate thereof in the Industrial Design Official Bulletin.

PART FOUR – EFFECTS OF THE CANCELLATION OF REGISTRATION

Article 43

The cancellation of a registration of an Industrial Design shall annul all the legal effects with respect to the Industrial Design Right and the related issues of the particular Industrial Design.

Article 44

- (1) If the registration of an Industrial Design is cancelled based on a complaint as referred to in Article 38, the Licensee shall remain eligible to exercise the License to the expiry of the period set forth in the License agreement.
- (2) The Licensee as referred to in paragraph (1) shall no longer pay the royalty it should have to do to the Licensor whose Industrial Design shall be cancelled, but shall transfer the payment of the royalty for the remaining period of the License agreement to the actual Industrial Design Right holder.

Elucidation: When it is cancelled, there is another person who actually has the right to the Industrial Design. Such a situation may occur if there are two holders of an Industrial Design, but either one of them is legally declared as the party who has the right. With the clarity provided in this paragraph (1), further payment of the royalty shall be made by the Licensee of the Industrial Design to the true holder of the Industrial Design.

Chapter VII - Charges

Article 45

- (1) For each Application, complaint of an Application, request for an excerpt from the Industrial Design General Registry, request for a priority document of an Industrial Design, request for a copy of an Industrial Design Certificate, recording of an assignment, recording of a License agreement, and any other request provided under this Law shall be charged a cost in the sum determined in a Government Regulation.
- (2) Further provisions of the conditions, periods, and procedures of payment of the charges as referred to in paragraph (1) shall be determined in a Presidential Decree.
- (3) The Directorate General on an approval of the Minister and the Minister of Finance may manage the charges referred to in paragraph (1) and paragraph (2) based on the prevailing laws and regulations.

Chapter VIII - Settlement of Disputes

Article 46

- (1) An Industrial Design Right holder or a Licensee shall be entitled to sue anyone who deliberately and without the permit therefor take an act as referred to in Article 9, in the form of:
 - (a) a claim for a compensation; and/or
 - (b) ending of all the acts as referred to in Article 9.
- (2) The claim as referred to in paragraph (1) shall be filed to the Commercial Court.

Article 47

Besides settlement as provided in Article 46, the parties may seek settlement through arbitration or an alternative settlement of disputes.

Elucidation: "Alternative settlement of disputes" here means a negotiation, mediation, conciliation, and other means the parties choose in accordance with the prevailing laws and regulations.

Article 48

The procedure for the claim as provided in Articles 39 and 41 shall mutatas-mutandis apply to the claims provided in Article 24, Article 28, and Article 46.

Chapter IX - Provisional Decision of the Court

Article 49

Based on sufficient evidence, the party whose rights has been adversely affected may request that the judge of the Commercial Court issue a provisional decision on:

- (a) prevention of the influx of products connected with a violation of an Industrial Design Right;
This provision is designed to prevent potentially bigger losses incurred by the party whose right has been violated so that the District Court is given the authority to issue a provisional decision in order to prevent the continuation of the violation and the influx of goods that may have been produced by violating the Industrial Design right, to the market, including importation.
- (b) storing of evidence connected with a violation of Industrial Design Right.

Elucidation: This provision is designed to prevent the violator from removing the evidence.

Article 50

In the event where a provisional decision of the court as referred to in Article 49 has been made effective, the Commercial Court shall forthwith notify the party affected by the action and to give such party the opportunity to give his/her/their statement.

Article 51

In the case the judge of the Commercial Court has issued a provisional decision, the judge of the Commercial Court examining the dispute shall decide to amend, cancel, or endorse the decision as referred to in Article 49 in a period of no later than thirty (30) days as from the issuance of such court decision.

Article 52

In the event a provisional decision of the Commercial Court is cancelled, the party who feels affected by the case may claim a compensation from the party who has requested the court to issue a provisional decision, for all the losses arising from such provisional decision of the court.

Chapter X - Investigation

Article 53

- (1) Besides the Officers, Investigators of the Indonesian National Police; Officials, Investigators of the Civil Service in the ministry that has the tasks and responsibilities including supervision of the Intellectual Property Rights, are assigned special authority as investigators as referred to in Law Number 8 of 1981 concerning Civil Law Procedures, to conduct technical investigations of criminal acts in Industrial Designs.
- (2) The investigators as referred to in paragraph (1) shall have the authority:
 - (a) to investigate the facts of any complaints or information with respects to criminal acts in the Industrial Designs;
 - (b) to interrogate the parties who are alleged of having committed criminal acts in Industrial Designs;
 - (c) to request information and evidence from parties with respect to any criminal acts in Industrial Designs;
 - (d) to examine the bookkeeping, records, and other documents with respect to criminal acts in Industrial Designs;
 - (e) to investigate in particular places which are supposed to be the locations of evidence in the forms of bookkeeping, recording and other documents.

- (f) to confiscate materials and/or goods obtained through violations for evidence in cases of criminal acts in Industrial Designs; and/or
 - (g) to request expert assistance in conducting investigation works of criminal acts in Industrial Designs.
- (3) The Officials, Investigators of the Civil Service as referred to in paragraph (1) shall in doing their tasks inform of the commencement of an investigation and report the results of their investigation to the Officers, Investigators of the Indonesian National Police.
- (4) The Officials, Investigators of the Civil Service shall upon completion of their investigation as referred to in paragraph (1), report the results of their investigation to the Public Prosecutor through the Officers, Investigators of the Indonesian National Police with due observance of the provision of Article 107 of Criminal Law Procedure.

Chapter XI - Criminal Penalties

Article 54

- (1) Anyone who deliberately without the right thereof commits the act as referred to in Article 9 shall be imprisoned for a maximum period of four (4) years and/or fined a maximum of three hundred million rupiah (Rp.300,000,000).
- (2) Anyone who deliberately violates the provision referred to in Article 8, Article 23 and Article 32 shall be imprisoned for a maximum period of one (1) year and/or fined a maximum of forty-five million rupiah (Rp. 45,000,000).
- (3) The criminal act referred to in paragraph (1) and paragraph (2) shall be a delict of complaint.

Chapter XII - Transitional Provisions

Article 55

- (1) The Designers who have announced their Industrial Designs within the period of six (6) months before this Law becomes valid, may make an Application on the basis of this Law.

- (2) The Application as referred to in paragraph (1) shall be made no later than six (6) months as from the date this Law becomes valid.

Chapter XIII - Closing Provisions

Article 56

With the enactment of this Law, the provision of Article 17 of Law Number 5 of 1984 concerning Industry (State Gazette of the Republic of Indonesia of 1984 Number 22, Supplement of the State Gazette of the Republic of Indonesia Number 3274) shall no longer be valid.

Article 57

This Law becomes valid as from the date it is enacted.

In order that everyone knows about it, it is hereby ordered that this Law be promulgated in the State Gazette of the Republic of Indonesia.