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By: THE PRESIDENT OF THE REPUBLIC OF INDONESIA
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Reference: LN 2016/252; TLN NO 5953
Title: TRADEMARK AND GEOGRAPHICAL INDICATION

BY THE GRACE OF THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. whereas in the era of global trade, in line with international convention which has been ratified by Indonesia, Trademark and Geographical Indication play very important role mainly in maintaining fair, equitable business competition, protection of consumers, as well as protection of Micro-, Small-, and Medium-Scale Enterprises and domestic industries;
- b. whereas to further improve services and give legal certainty for industrial, trade, and investment community in facing the development of local, national, regional, and international economy as well as the development of information and communication technology, it needs to be supported by more adequate laws and regulations in the field of Trademark and Geographical Indication;
- c. whereas Law Number 15 Year 2001 regarding Trademark is still insufficient and cannot yet accommodate the development of the need of society in the field of Trademark and Geographical Indication as well as inadequately guarantees protection of potential of local and national economy so that it is necessary to replace it;
- d. whereas based on the considerations as intended in points a, b, and c, it is necessary to stipulate Law regarding Trademark and Geographical Indication;

In View of:

1. Article 5 paragraph (1), Article 18A paragraph (2), Article 18B paragraph (2), Article 20, and Article 33 of the 1945 Constitution of the State of the Republic of Indonesia;
2. Law Number 7 Year 1994 regarding Ratification of *Agreement Establishing the World Trade Organization* (State Gazette of the Republic of Indonesia Year 1994 Number 57, Supplement to State Gazette of the Republic of Indonesia Number 3564);

With the Joint Approval of

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To Stipulate: LAW REGARDING TRADEMARK AND GEOGRAPHICAL INDICATION.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law, referred to as:

1. Trademark shall be mark which can be displayed graphically in the form of drawing, logo, name, words, letters, numbers, composition of colors, in the form of 2 (two) and/or 3 (three) dimensions, voice, hologram, or combination of 2 (two) or more elements to distinguish goods and/or services which are produced by persons or legal entity in goods and/or services trade activities.
2. Trademark shall be Trademark which is used on goods which are traded by someone or some people jointly or by legal entity to distinguish from other similar goods.
3. Service Trademark shall be Trademark which is used on services which are traded by someone or some people jointly or legal entity to distinguish from other similar services.
4. Collective Trademark shall be Trademark which is used on goods and/or services with the same characteristics regarding nature, general characteristics, and quality of goods or services as well as its supervision which will be traded by some people or legal entity jointly to distinguish from other similar goods and/or services.
5. Rights to Trademark shall be exclusive rights which are provided by state to Trademark owners which are registered for a certain period by using the Trademark by themselves or by giving permit to other parties to use it.
6. Geographical Indication shall be a mark which shows region of origin of goods and/or product which, due to geographical environment factor including natural factor, human factor or combination of the two factors, gives certain reputation, quality, and characteristics of goods and/or products produced.
7. Rights to Geographical Indication shall be exclusive rights which are provided by the state to the registered holder of rights of Geographical Indication, while the reputation, quality, and characteristics constituting basis for the provision of protection of Geographical Indication still exist.
8. Application shall be request for registration of Trademark or registration of Geographical Indication which is filed to the Minister.
9. Applicant shall be the party which files Application for Trademark or Geographical Indication.

10. Geographical Indication User shall be the party which obtains permit from the registered holder of Rights to Geographical Indication to process and/or market goods and/or products of Geographical Indication.
11. Document of Description of Geographical Indication shall be a document which indicates information, including reputation, quality, and characteristic of goods and/or products relating to geographical factor of goods and/or products the Geographical Indication of which is applied for.
12. Examiner shall be Trademark Examiner as functional official who, due to his/her skill, is appointed and discharged by the Minister to perform substantive examination on Application for registration of Trademark.
13. Proxy shall be intellectual property consultant who resides or domiciles permanently in the territory of the Unified State of the Republic of Indonesia.
14. Intellectual Property Consultant shall be a person who has skill in the field of intellectual property and who is registered as Intellectual Property Consultant, as well as who specially provides services in the field of filing and handling of Application for intellectual property.
15. Expert Team for Geographical Indication shall be a team consisting of persons who have skill to assess Documents of Description on Geographical Indication and to give considerations/recommendation to the Minister in connection with registration, alteration, cancellation, technical guidance and/or supervision on national Geographical Indication.
16. Date of Receipt shall be the date of receipt of Application which meets the minimum requirements.
17. Priority Rights shall be rights of Applicant to file Application which originates from a country constituting a member of *Paris Convention for the Protection of Industrial Property* or *Agreement Establishing the World Trade Organization* to obtain acknowledgement that Date of Receipt in country of origin is the date of priority in country of destination which is also a member of one of the two agreements, as long as the filing is conducted in the period already specified based on the aforementioned international agreement.
18. License shall be a permit which is provided by registered Trademark owner to other parties based on agreement in writing in accordance with laws and regulations to use registered Trademark.
19. Person shall be individual or legal entity.
20. Minister shall be the minister who is in charge of governmental affairs in the field of law.
21. Date of Delivery shall be the date of postal stamp and/or the date of delivery of electronic mail.
22. Day shall be workday.
23. Trademark Appeal Commission shall be independent special agency existing within the ministry which is in charge of governmental affairs in the field of law.

24. Official News of Trademark shall be official media which is regularly issued by the Minister by electronic and/or non-electronic facilities and which indicates the provisions on Trademark under this Law.

CHAPTER II SCOPE OF TRADEMARK

Article 2

- (1) The scope of this Law shall cover:
- a. Trademark; and
 - b. Geographical Indication.
- (2) Trademark as intended in paragraph (1) sub-paragraph a shall cover:
- a. Trademark; and
 - b. Service Trademark.
- (3) Trademark protected shall consist of mark in the form of drawing, logo, name, word, letter, number, composition of colors, in the form of 2 (two) and/or 3 (three) dimensions, voice, hologram, or combination of 2 (two) or more of the elements to distinguish goods and/or services which are produced by person or legal entity in goods and/or services trade activities.

Article 3

Rights to Trademark shall be obtained after the Trademark is registered.

CHAPTER III APPLICATION FOR REGISTRATION OF TRADEMARK

Part One Requirements and Procedures for Application

Article 4

- (1) Application for registration of Trademark shall be filed by Applicant or his/her Proxy to the Minister electronically or non-electronically in Indonesian language.
- (2) Application as intended in paragraph (1) must indicate:
- a. date, month, and year of Application;
 - b. full name, citizenship, and address of Applicant;
 - c. name and address of Proxy if Application is filed through Proxy;
 - d. color if Trademark which is applied for registration uses element of color;
 - e. name of country and the date of the first request for Trademark in the event that Application is filed with Priority Right; and

- f. class of goods and/or class of services as well as description of types of goods and/or types of services.
- (3) Application shall be signed by Applicant or his/her Proxy.
- (4) Application as intended in paragraph (1) shall be attached with Trademark label and slip of payment of costs.
- (5) Costs of Application for registration of Trademark shall be determined per class of goods and/or services.
- (6) In the event that Trademark as intended in paragraph (4) is in the form of 3 (three) dimensions, Trademark label which is attached shall be in the form of characteristics of the Trademark.
- (7) In the event that Trademark as intended in paragraph (4) is in the form of voice, Trademark label which is attached shall be in the form of notation and recording of voice.
- (8) Application as intended in paragraph (1) must be attached with statement letter of ownership of Trademark the registration of which is applied for.
- (9) Further provisions on costs of Application as intended in paragraph (5) shall be stipulated in Government Regulation.

Article 5

- (1) In the event that Application is filed by more than one Applicant which jointly have rights to the Trademark, all Applicants' names shall be indicated by choosing one of the addresses as Applicants' address.
- (2) Application as intended in paragraph (1) shall be signed by one of the Applicants having rights to the Trademark by attaching written approval from the Applicants who are being represented.
- (3) Application as intended in paragraph (1) in which one of the Applicants or more is foreign citizen and foreign legal entity which is domiciled overseas must be filed through Proxy.
- (4) In the event that the Application as intended in paragraph (1) is filed through Proxy, power of attorney for that purpose shall be signed by all parties having rights to the Trademark.

Article 6

- (1) Application for more than 1 (one) class of goods and/or services can be filed in one Application.
- (2) Application as intended in paragraph (1) must mention the types of goods and/or services which are included in class which are applied for registration.
- (3) Further provisions on class of goods and/or services as intended in paragraph (1) shall be stipulated in Regulation of the Minister.

Article 7

- (1) Application and matters relating to administration of Trademark which is filed by Applicant who resides or domiciles permanently outside the territory of the Unified State of the Republic of Indonesia must be filed through Proxy.
- (2) Applicant as intended in paragraph (1) must declare and choose Proxy's address as legal domicile in Indonesia.

Article 8

Further provisions on the Requirements and Procedures for Application as intended in Article 4 up to Article 6 shall be stipulated in Regulation of the Minister.

Part Two

Application for Registration of Trademark with Priority Right

Article 9

Application with Priority Right must be filed in a maximum period of 6 (six) months as from Date of Receipt of application for registration of Trademark which is the first time received in other country constituting member of *Paris Convention for the Protection of Industrial Property* or member of *Agreement Establishing the World Trade Organization*.

Article 10

- (1) In addition to having to meet the provisions as intended in Article 4 up to Article 7, Application with Priority Right must be completed with proof of receipt of application for registration of Trademark which the first time brings about the Priority Right.
- (2) Proof as intended in paragraph (1) must be translated into Indonesian language.
- (3) In the event that the provisions as intended in paragraphs (1) and (2) are not met in a maximum period of 3 (three) months after the end of rights to file Application with Priority Right as intended in Article 9, the Application shall remain to be processed but without using Priority Right.

Part Three

Examination on Completeness of the Requirements for Registration of Trademark

Article 11

- (1) Application shall be filed by meeting all completeness of the requirements for registration of Trademark as intended in Articles 4, 5, 6, 7, 9, and 10.
- (2) In the event of lack of completeness of the requirements as intended in Articles 4, 5, 6, and/or 7, in the period by no later than 30 (thirty) Days as from the date of receipt, Applicant shall be notified to meet the completeness of the requirements in the period by no later than 2 (two) months as from Date of Delivery of notification to meet the completeness of the requirements.
- (3) In the event that the lack relates to the completeness of the requirements as intended in Article 10, the period of fulfillment of the lack of completeness of the

requirements shall be by no later than 3 (three) months as from the expiration of the period of filing of Application with Priority Right.

- (4) In the event that the completeness of the requirements for Application as intended in paragraphs (2) and (3) is not yet met because of natural disasters or force majeure beyond human control, Applicant or his/her Proxy can file application in writing for extension of the period of fulfillment of completeness of the aforementioned requirements.

Article 12

In the event that the completeness of the requirements is not met in the period as intended in Article 11 paragraph (2), the Minister shall notify in writing to Applicant or his/her Proxy that his/her Application is deemed withdrawn.

Part Four Date of Receipt of Application

Article 13

- (1) Application which meets the minimum requirements shall be provided Date of Receipt.
- (2) The minimum requirements as intended in paragraph (1) shall consist of:
 - a. Application form already filled out completely;
 - b. Trademark label; and
 - c. slip of payment of costs.

Part Five Announcement of Application

Article 14

- (1) The Minister shall announce Application in Official News of Trademark in a maximum period of 15 (fifteen) Days as from Date of Receipt of Application as intended in Article 13.
- (2) Announcement of Application in Official News of Trademark as intended in paragraph (1) shall last for 2 (two) months.
- (3) Official News of Trademark as intended in paragraph (2) shall be regularly issued by the Minister through electronic and/or non-electronic facilities.

Article 15

Announcement shall be made by indicating:

- a. Applicant's name and address, including Proxy if Application is filed through Proxy;
- b. class and types of goods and/or services;

- c. Date of Receipt;
- d. name of country and Date of Receipt of the first application in the event that Application is filed with Priority Right; and
- e. Trademark label, including explanations on color and if Trademark label uses foreign language and/or letter other than Latin letter and/or number which are not commonly used in Indonesian language, it shall be accompanied with its translation into Indonesian language, Latin letter or number which is commonly used in Indonesian language, as well as pronunciation in Latin spelling.

Part Six Objection and Protest

Article 16

- (1) In the period of announcement as intended in Article 14 any party can file objection in writing to the Minister to the related Application which is charged with costs.
- (2) Objection as intended in paragraph (1) can be filed if there are sufficient reasons which are accompanied with proofs that Trademark which is applied for registration is Trademark which based on this Law cannot be registered or rejected.
- (3) In the event that there is objection as intended in paragraph (1), in a maximum period of 14 (fourteen) Days as from the date of receipt of objection, copy of letter which indicates the objection shall be delivered to Applicant or his/her Proxy.

Article 17

- (1) Applicant or his/her Proxy shall have rights to file protest against objection as intended in Article 16 to the Minister.
- (2) Protest as intended in paragraph (1) shall be filed in writing in a maximum period of 2 (two) months as from Date of Delivery of copy of objection which is conveyed by the Minister.

Part Seven Improvement and Withdrawal of Application for Registration of Trademark

Article 18

Improvement of Application shall only be permitted with regard to writing of name and/or address of Applicant or of his/her Proxy.

Article 19

- (1) As long as certificate of Trademark or letter of rejection from the Minister is not yet issued, Application can be withdrawn by Applicant or his/her Proxy.
- (2) In the event that withdrawal as intended in paragraph (1) is done by Proxy, the withdrawal must be conducted based on special power of attorney for the purpose of withdrawal.

CHAPTER IV REGISTRATION OF TRADEMARK

Part One Trademark which Cannot Be Registered and Rejected

Article 20

Trademark cannot be registered if:

- a. it is contrary to state ideology, laws and regulations, morality, religion, decency, or public order;
- b. it is the same as, relates to, or only mentions goods and/or services the registration of which is applied for;
- c. it indicates elements which can mislead the society regarding origin, quality, type, measure, kind, purposes of use of goods and/or services the registration of which is applied for or constitutes name of plant varieties which are protected for similar goods and/or services;
- d. it indicates explanations not in accordance with quality, benefits, or efficacy of goods and/or services produced;
- e. it has no distinguishing power; and/or
- f. it constitutes general name and/or symbol of public property.

Article 21

- (1) Application shall be rejected if the Trademark has resemblance substantially or entirely with:
 - a. registered Trademark owned by other parties or applied earlier by other parties for similar goods and/or services;
 - b. famous Trademark owned by other parties for similar goods and/or services;
 - c. famous Trademark owned by other parties for non similar goods and/or services which meet certain requirements; or
 - d. registered Geographical Indication.
- (2) Application shall be rejected if the Trademark:
 - a. constitutes or resembles name or abbreviation of name of famous person, photograph, or name of legal entity owned by other persons, except upon written approval of the entitled party;
 - b. constitutes artificial or resembles name or abbreviation of name, flag, logo or symbol or emblem of a country, or national or international institutions, except upon written approval from the party authorized; or

- c. constitutes artificial or resembles mark or official stamp or seal which is used by state or Government institutions, except upon written approval from the parties authorized.
- (3) Application shall be rejected if filed by Applicant having bad faith.
- (4) Further provisions on rejection to Application for Trademark as intended in paragraph (1) sub-paragraph a up to sub-paragraph c shall be stipulated in Regulation of the Minister.

Article 22

With respect to registered Trademark which thereafter becomes generic name, everyone can file Application for Trademark by using the said generic name with addition of other words insofar as there is distinguishing element.

Part Two Substantive Examination on Trademark

Article 23

- (1) Substantive examination shall constitute examination by Examiner on Application for registration of Trademark.
- (2) All objections and/or protests as intended in Articles 16 and 17 shall become the considerations in substantive examination as intended in paragraph (1).
- (3) In the event that there is no objection in the period by no later than 30 (thirty) Days as from the date of the expiration of announcement, then substantive examination on Application shall be performed.
- (4) In the event that there is objection in the period by no later than 30 (thirty) Days as from the date of the expiration of time limit of conveyance of protest as intended in Article 17, substantive examination on Application shall be performed.
- (5) Substantive examination as intended in paragraphs (3) and (4) shall be settled in the period by no later than 150 (one hundred fifty) Days.
- (6) In the event that substantive examination is required, Trademark examiner expert outside Examiner can be stipulated.
- (7) Result of substantive examination by Trademark examiner expert outside Examiner as intended in paragraph (6), can be deemed equal to result of substantive examination conducted by Examiner, with approval of the Minister.
- (8) Further provisions on Trademark examiner expert outside Examiner as intended in paragraph (6) shall be stipulated in Regulation of the Minister.

Article 24

- (1) In the event that Examiner decides that Application can be registered, the Minister shall:
 - a. register the Trademark;

- b. notify registration of the Trademark to Applicant or his/her Proxy;
 - c. issue certificate of Trademark; and
 - d. announce registration of the Trademark in Official News of Trademark, whether electronic or non-electronic.
- (2) In the event that Examiner decides that Application cannot be registered or is rejected, the Minister shall notify in writing to Applicant or his/her Proxy by mentioning its reasons.
- (3) In the period by no later than 30 (thirty) Days as from Date of Delivery of notification as intended in paragraph (2), Applicant or his/her Proxy can convey his/her response in writing by mentioning its reasons.
- (4) In the event that Applicant or his/her Proxy does not convey any response as intended in paragraph (3), the Minister shall reject the Application.
- (5) In the event that Applicant or his/her Proxy conveys response as intended in paragraph (3) and Examiner decides that the response can be accepted, the Minister shall implement the provisions as intended in paragraph (1).
- (6) In the event that Applicant or his/her Proxy conveys response as intended in paragraph (3) and Examiner decides that the response cannot be accepted, the Minister shall reject the Application.
- (7) The rejection as intended in paragraphs (4) and (6) shall be notified in writing to Applicant or his/her Proxy by mentioning its reasons.
- (8) In the event that there is objection as intended in Article 16, the Minister shall deliver copy of the notification on registration or rejection to the party who files objection.

Article 25

- (1) Certificate of Trademark shall be issued by the Minister as from the Trademark is registered.
- (2) Certificate of Trademark as intended in paragraph (1) shall indicate:
- a. name and complete address of registered Trademark owner;
 - b. Proxy's name and complete address, in the event that Application is filed through Proxy;
 - c. Date of Receipt;
 - d. name of country and Date of Receipt of the first application in the event that Application is filed with Priority Right;
 - e. registered Trademark label, including explanations on kind of color if the Trademark uses element of color, and if Trademark uses foreign language, letter other than Latin letter, and/or number which are not commonly used in Indonesian language, it shall be accompanied with its

translation in Indonesian language, Latin letter and number which are commonly used in Indonesian language as well as pronunciation in Latin spelling;

- f. number and date of registration;
 - g. class and types of goods and/or services the Trademark of which is registered; and
 - h. the period of validity of registration of Trademark.
- (3) In the event that certificate of Trademark already issued is not taken by Trademark owner or his/her Proxy in the period by no later than 18 (eighteen) months as from the date of issuance of certificate, Trademark already registered shall be deemed to be withdrawn and shall be deleted.

Article 26

Any party can file application to obtain official excerpt of certificate of Trademark which is registered by paying costs.

Part Three Improvement of Certificate

Article 27

- (1) Registered Trademark Owner or his/her Proxy can file application for improvement in writing to the Minister in the event that there is error in certificate of Trademark as intended in Article 25 free of charge.
- (2) In the event that error in certificate of Trademark is caused by mistake of Applicant in filing Application for registration of Trademark, the improvement of certificate of Trademark shall be charged with costs.
- (3) Further provisions on the improvement of certificate as intended in paragraphs (1) and (2) shall be stipulated in Regulation of the Minister.

Part Four Appeal Request

Article 28

- (1) Appeal request can be filed against rejection to Application based on the reasons as intended in Article 20 and/or Article 21.
- (2) Appeal request shall be filed in writing by Applicant or his/her Proxy to Trademark Appeal Commission with a copy addressed to the Minister which is charged with costs.
- (3) Appeal request shall be filed by completely explaining objection as well as the reasons for rejection to Application.
- (4) The reasons as intended in paragraph (3) shall not constitute correction or improvement of Application which is rejected.

Article 29

- (1) Appeal request against rejection to Application shall be filed in the period by no later than 90 (ninety) Days as from Date of Delivery of notification on rejection to Application.
- (2) In the event that appeal request as intended in paragraph (1) is not filed, rejection to Application shall be deemed to be received by Applicant.

Article 30

- (1) Decision of Trademark Appeal Commission shall be provided in a maximum period of 3 (three) months as from the date of receipt of appeal request.
- (2) In the event that Trademark Appeal Commission approves appeal request, the Minister shall issue and give certificate of Trademark to Applicant or his/her Proxy as intended in Article 24.
- (3) In the event that Trademark Appeal Commission rejects appeal request, Applicant or his/her Proxy can file lawsuit against decision on rejection to appeal request to Commercial Court in a maximum period of 3 (three) months as from the date of the receipt of the decision on rejection.
- (4) Appeal to the Supreme Court can be filed against decision of Commercial Court as intended in paragraph (3).

Article 31

In the event that registered Trademark offends state ideology, laws and regulations, morality, religion, decency, and public order, Trademark Appeal Commission shall give recommendation to the Minister for deletion.

Article 32

Further provisions on the procedures for application, examination as well as settlement of appeal at Trademark Appeal Commission as intended in Article 28 up to Article 31 shall be stipulated in Government Regulation.

Part Five Trademark Appeal Commission

Article 33

- (1) Trademark Appeal Commission shall consist of:
 - a. a chairman who also serves as member;
 - b. a vice chairman who serves also as member;
 - c. expert in the field of Trademark as member; and
 - d. senior Examiner as member.
- (2) Number of member of Trademark Appeal Commission as intended in paragraph (1) shall be a maximum of 30 (thirty) persons consisting of 15 (fifteen) senior

Examiners and 15 (fifteen) experts in the field of Trademark who are appointed and discharged by the Minister for the term of office of 3 (three) years.

- (3) Chairman and vice chairman shall be chosen from and by members of Trademark Appeal Commission.
- (4) To examine appeal request, Trademark Appeal Commission shall establish council of odd number at least 3 (three) persons, one of them shall be a senior Examiner who does not perform substantive examination on Application.

Article 34

Further provisions on the requirements and procedures for appointment of member, organizational structure, duties, and functions of Trademark Appeal Commission as intended in Article 33 shall be stipulated in Government Regulation.

Part Six

Period of Protection and Extension of Registered Trademark

Article 35

- (1) Registered Trademark shall obtain legal protection for the period of 10 (ten) years as from Date of Receipt.
- (2) The period of protection as intended in paragraph (1) can be extended for the same period.
- (3) Application for extension as intended in paragraph (2) shall be filed electronically or non-electronically in Indonesian language by Trademark owner or his/her Proxy in the period of 6 (six) months before the expiration of the period of protection for the registered Trademark which is charged with costs.
- (4) Application for extension as intended in paragraph (2) can still be filed in the period by no later than 6 (six) months after the expiration of the period of protection of the registered Trademark which is charged with costs and fine amounting to costs of extension.

Article 36

Application for extension shall be approved if Applicant attaches statement letter that:

- a. the related Trademark is still used on goods or services as indicated in the certificate of Trademark; and
- b. goods or services as intended in point a are still produced and/or traded.

Article 37

- (1) Application for extension shall be rejected if it does not meet the provisions as intended in Article 36.
- (2) The rejection to application for extension as intended in paragraph (1) shall be notified in writing to Trademark owner or his/her Proxy by mentioning its reasons.

- (3) Appeal request against objection to the rejection to application for extension as intended in paragraph (2) can be filed to Trademark Appeal Commission.
- (4) The provisions on appeal request as intended in Article 28 up to Article 30 shall be applicable *mutatis mutandis* to rejection to application for extension.

Article 38

- (1) Extension of registered Trademark in the form of logo or symbol of company or legal entity, shall not require the procedures as intended in Article 35 up to Article 37, but shall be enough by making payment of costs of extension of registered Trademark in the period of 6 (six) months before the expiration of the period of protection for registered Trademark, insofar as there is no dispute in extension of the said Trademark.
- (2) In the event that there is dispute as intended in paragraph (1), stipulation of registration of application for extension of Trademark shall be stipulated after having decision which has binding legal force.

Article 39

- (1) Extension of the period of protection of registered Trademark shall be recorded and announced in Official News of Trademark.
- (2) Extension of the period of protection of registered Trademark as intended in paragraph (1) shall be notified in writing to Trademark owner or his/her Proxy.
- (3) Further provisions on the requirements and procedures for application for extension of the period of protection of registered Trademark as intended in paragraphs (1) and (2) shall be stipulated in Regulation of the Minister.

Article 40

- (1) Application for recording of change of name and/or address of registered Trademark owner shall be filed to the Minister which is charged with costs to be recorded which is accompanied with valid copy on the proof of change.
- (2) The change of name and/or address as intended in paragraph (1) can be done at the time of Application process of registration of Trademark.
- (3) The change of name and/or address of Trademark owner as intended in paragraph (1) shall be announced in Official News of Trademark.
- (4) Further provisions on the requirements and procedures for application for recording of change of name and/or address as intended in paragraph (1) up to paragraph (3) shall be stipulated in Regulation of the Minister.

CHAPTER V TRANSFER OF RIGHTS AND LICENSE

Part One Transfer of Rights

Article 41

- (1) Rights to registered Trademark can turn or can be transferred because of:
 - a. inheritance
 - b. will and testament;
 - c. donation for religious purpose;
 - d. grant;
 - e. agreement; or
 - f. other causes which are justified by laws and regulations.
- (2) Transfer of Rights to registered Trademark by Trademark Owner which has more than one registered Trademark having resemblance substantially or entirely for similar goods and/or services can only be done if all the registered Trademarks are transferred to the same party.
- (3) Transfer of Rights to registered Trademark as intended in paragraphs (1) and (2) shall be applied for its recording to the Minister.
- (4) Application for transfer of Rights to Trademark as intended in paragraph (3) shall be accompanied with its supporting documents.
- (5) Transfer of Rights to registered Trademark already recorded as intended in paragraph (3) shall be announced in Official News of Trademark.
- (6) Transfer of Rights to registered Trademark which is not recorded shall not have legal consequences to the third party.
- (7) Recording of transfer of Rights to Trademark as intended in paragraph (1) shall be charged with costs.
- (8) Transfer of Rights to Trademark as intended in paragraph (1) can be performed at the time of Application process of registration of Trademark.
- (9) Further provisions on the requirements and procedures for application for recording of transfer of Rights to Trademark as intended in paragraph (1) up to paragraph (8) shall be stipulated in Regulation of the Minister.

Part Two License

Article 42

- (1) Registered Trademark Owner can give License to other parties to use the Trademark whether a part of or the entire types of goods and/or services.
- (2) License Agreement applicable throughout the territory of the Unified State of the Republic of Indonesia, unless otherwise agreed upon.
- (3) Recording of Agreement License must be applied for to the Minister which is charged with costs.

- (4) License Agreement as intended in paragraph (3) shall be recorded by the Minister and shall be announced in Official News of Trademark.
- (5) License Agreement which is not recorded shall not arouse any legal consequences to the third party.
- (6) License Agreement shall be prohibited from indicating the provisions whether directly or indirectly which brings about consequences which harm Indonesian economy or indicating restriction which inhibits ability of Indonesian nation to master and develop technology.

Article 43

Registered Trademark Owner already giving License to other parties as intended in Article 42 paragraph (1) can still use by himself/herself or can give License to the third party to use the Trademark, unless otherwise agreed upon.

Article 44

The use of registered Trademark in the territory of the Unified State of the Republic of Indonesia by Licensee shall be deemed same as the use of the Trademark in the territory of the Unified State of the Republic of Indonesia by Trademark owner.

Article 45

Further provisions on the requirements and procedures for recording of License as intended in Article 42 paragraph (3) shall be stipulated in Regulation of the Minister.

CHAPTER VI COLLECTIVE TRADEMARK

Article 46

- (1) Application for registration of Trademark as Collective Trademark can only be received if it is clearly declared that the Trademark will be used as Collective Trademark in the Application.
- (2) In addition to confirmation on the use of Collective Trademark as intended in paragraph (1) the Application must be accompanied with copy of the provisions on the use of the Trademark as Collective Trademark.
- (3) The provisions on the use of Collective Trademark as intended in paragraph (2) shall at least indicate arrangement of:
 - a. nature, general characteristics, or quality of goods and/or services to be produced and traded;
 - b. supervision on the use of Collective Trademark; and
 - c. sanctions on infringement against the provisions on the use of Collective Trademark.
- (4) For empowerment of Micro-, Small-, and Medium-Scale Enterprises, the Government can register Collective Trademark which is designated for development of the business and/or public services.

Article 47

Application for registration of Collective Trademark shall undergo examination on the completeness of the requirements as intended in Article 4 up to Article 7 and Article 46.

Article 48

Substantive examination on Application for Collective Trademark shall be conducted in accordance with the provisions in Articles 23 and 24.

Article 49

- (1) Transfer of rights of registered Collective Trademark must be applied for its recording to the Minister which is charged with costs.
- (2) The recording of transfer of rights as intended in paragraph (1) shall be recorded and announced in Official News of Trademark.

Article 50

Registered Collective Trademark shall be used by the said community of Collective Trademark and cannot be licensed to any other parties.

Article 51

Further provisions on Collective Trademark as intended in Article 46 up to Article 50 shall be stipulated in Regulation of the Minister.

CHAPTER VII APPLICATION FOR REGISTRATION OF INTERNATIONAL TRADEMARK

Article 52

- (1) Application for registration of international Trademark can be in the form of:
 - a. Application which originates from Indonesia addressed to international bureau through the Minister; or
 - b. Application addressed to Indonesia as one of countries of destination which is received by the Minister from international bureau.
- (2) Application for registration of international Trademark as intended in paragraph (1) sub-paragraph a can only be filed by:
 - a. Applicant who has Indonesian citizenship;
 - b. Applicant who has domicile or legal domicile in the territory of the Unified State of the Republic of Indonesia; or
 - c. Applicant who has real industrial or commercial business activities in the territory of the Unified State of the Republic of Indonesia.

- (3) Applicant as intended in paragraph (2) shall have filed Application or shall have registration of Trademark in Indonesia as basis for Application for registration of international Trademark.
- (4) Further provisions on registration of international Trademark based on *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks* shall be stipulated in Government Regulation.

CHAPTER VIII GEOGRAPHICAL INDICATION

Article 53

- (1) Geographical Indication shall be protected after Geographical Indication is registered by the Minister.
- (2) To obtain protection as intended in paragraph (1), Geographical Indication Applicant must file Application to the Minister.
- (3) Applicant as intended in paragraph (2) shall constitute:
 - a. institution which represents the society in certain geographical area which commercializes goods and/or product in the form of:
 - 1. natural resources;
 - 2. handicraft items; or
 - 3. industrial products.
 - b. regional government of province or regency/city.
- (4) The provisions on announcement, objection, protest, and withdrawal as intended in Article 14 up to Article 19 shall be applicable *mutatis mutandis* to Application for registration of Geographical Indication.

Article 54

- (1) Application which is filed by Applicant who resides or domiciles permanently outside the territory of the Unified State of the Republic of Indonesia must be filed through his/her Proxy in Indonesia.
- (2) Application as intended in paragraph (1) can only be registered if the Geographical Indication has obtained acknowledgement from the government of his/her country and/or has been registered in accordance with the provisions applicable in his/her country of origin.

Article 55

- (1) Geographical Indication can also be registered based on international agreement.
- (2) Further provisions on registration of Geographical Indication from overseas as intended in Article 54 shall be stipulated in Regulation of the Minister.

CHAPTER IX
REGISTRATION OF GEOGRAPHICAL INDICATION

Part One
Geographical Indication which Cannot be Registered and Rejected

Article 56

- (1) Application for Geographical Indication cannot be registered if it:
 - a. is contrary to state ideology, laws and regulations, morality, religion, decency, and public order;
 - b. misleads or deceives the society in reputation, quality, characteristic, origin of source, production process of goods, and/or its usefulness; and
 - c. constitutes name already used as plant variety and used for similar plant variety, except there is addition of synonym which shows similar geographical indication factor.
- (2) Application for Geographical Indication shall be rejected if:
 - a. accuracy of Document of Description on Geographical Indication cannot be evidenced; and/or
 - b. it has resemblance on the whole with Geographical Indication already registered.

Article 57

- (1) The rejection as intended in Article 56 paragraph (2) can be applied for appeal to Trademark Appeal Commission.
- (2) The provisions on appeal as intended in Article 28 up to Article 32 shall be applicable *mutatis mutandis* to the request for appeal as intended in paragraph (1).

Part Two
Substantive Examination on Geographical Indication

Article 58

- (1) Substantive examination on Geographical Indication shall be performed by Expert Team for Geographical Indication.
- (2) The provisions on substantive examination on Trademark as intended in Article 23 up to Article 26 shall be applicable *mutatis mutandis* to substantive examination as intended in paragraph (1).

Article 59

- (1) Expert Team for Geographical Indication as intended in Article 58 paragraph (1) shall constitute independent team to make assessment of Documents of Description on Geographical Indication and shall give

considerations/recommendation to the Minister in connection with registration, alteration, cancellation, and/or supervision on national Geographical Indication.

- (2) Number of members of Expert Team for Geographical Indication as intended in paragraph (1) shall be a maximum of 15 (fifteen) persons consisting of experts who have skill in the field of Geographical Indication who originate from:
 - a. representatives of the Minister;
 - b. representatives of the ministry in charge of agricultural, industrial, trade affairs, and/or other related ministries;
 - c. representatives of agencies or institutions authorized to supervise and/or test quality of goods; and/or
 - d. other competent experts.
- (3) Member of Expert Team for Geographical Indication as intended in paragraph (2) shall be appointed and discharged by the Minister for the term of office of 5 (five) years.
- (4) Expert Team for Geographical Indication shall be led by a chairman who is chosen from and by members of Expert Team for Geographical Indication.
- (5) In carrying out its duties and functions as intended in paragraph (1), Expert Team for Geographical Indication shall be helped by technical team for assessment the membership of which is based on skill.

Article 60

Further provisions on the requirements and procedures for registration of Geographical Indication as well as appointment of members, composition of organization, duties, and functions of Expert Team for Geographical Indication as intended in Article 56 up to Article 59 shall be stipulated in Regulation of the Minister.

Part Three

Period of Protection and Deletion of Geographical Indication

Article 61

- (1) Geographical Indication shall be protected as long as the reputation, quality, and characteristics which constitute the basis for providing protection of Geographical Indication to goods are maintained.
- (2) Geographical Indication can be deleted if:
 - a. the provisions as intended in paragraph (1) are not met; and/or
 - b. the provisions as intended in Article 56 paragraph (1) sub-paragraph a are violated.

Article 62

- (1) Expert Team for Geographical Indication at its own initiative or based on report of the society shall perform examination on reputation, quality, and characteristics of registered Geographical Indication and shall report it to the Minister.
- (2) In the event that the Minister receives the report as intended in paragraph (1) not originating from Expert Team for Geographical Indication, the Minister shall forward the report to Expert Team for Geographical Indication by no later than 30 (thirty) Days as from the receipt of the report.
- (3) In a maximum period of 6 (six) months as from the receipt of report as intended in paragraph (2) Expert Team for Geographical Indication shall perform examination and shall notify its result of decision as well as measures that must be taken to the Minister.
- (4) In the event that result of decision declares that Geographical Indication meets the provisions to be deleted as intended in Article 61 paragraph (2), in a maximum period of 30 (thirty) Days as from the receipt of result of decision as intended in paragraph (3) the Minister shall perform deletion.
- (5) In the event that the Minister gives decision on deletion of Geographical Indication, the Minister shall notify in writing to Applicant or his/her Proxy and to the entire Geographical Indication Users, or through their Proxy by no later than 14 (fourteen) Days as from the receipt of the decision.
- (6) In a maximum period of 30 (thirty) Days as from making decision of result of deletion as intended in paragraph (5) the decision shall be announced in Official News of Geographical Indication.
- (7) Announcement as intended in paragraph (6) must declare deletion of Geographical Indication and the end of rights to use of Geographical Indication by Geographical Indication Users.
- (8) Objection to deletion of Geographical Indication as intended in paragraph (5) can be filed to Commercial Court by no later than 3 (three) months as from the receipt of the decision on deletion.

Part Four Indication of Origin

Article 63

Indication of origin shall be protected without obligation of registration or declaratively as mark which shows origin of goods and/or service which is right and used in trade.

Article 64

Indication of origin shall constitute characteristics of origin of goods and/or services which are not directly related to natural factor.

Article 65

Further provisions on indication of origin as intended in Articles 63 and 64 shall be stipulated in Regulation of the Minister.

CHAPTER X

INFRINGEMENT AND LAWSUIT

Part One Infringement against Geographical Indication

Article 66

Infringement against Geographical Indication shall cover:

- a. the use of Geographical Indication, whether directly or indirectly on goods and/or products which do not meet Documents of Description on Geographical Indication;
- b. the use of a Geographical Indication mark, whether directly or indirectly on goods and/or products which are protected or not protected for the purposes of:
 1. showing that quality of the goods and/or products is proportional to goods and/or products which are protected by Geographical Indication;
 2. obtaining benefits from the use; or
 3. obtaining benefits of reputation of Geographical Indication.
- c. the use of Geographical Indication which can mislead the society in connection with geographical origin of the goods;
- d. the use of Geographical Indication by non-Users of registered Geographical Indication;
- e. imitation or misuse which can be misleading in connection with origin of place of goods and/or products or quality of goods and/or products existing on:
 1. wrap or packaging;
 2. explanations in advertisement;
 3. explanations in documents of the goods and/or products; or
 4. information which can be misleading on origin in a packaging.
- f. other measures which can mislead the public at large on accuracy of origin of the goods and/or products.

Part Two Lawsuit

Article 67

- (1) Lawsuit can be filed to infringement as intended in Article 66.
- (2) Lawsuit as intended in paragraph (1) can be conducted by:
 - a. any producers having rights to use Geographical Indication; and/or

- b. institutions which represent the society in certain geographical area and which are authorized for such purpose.

Article 68

- (1) In the event that before or at the time of application for registration as Geographical Indication, a mark is used with good faith by other party having no rights to register under the provisions as intended in Article 53 paragraph (3), the party having good faith can still use the mark for the period of 2 (two) years as from the mark is registered as Geographical Indication.
- (2) In the event that the mark as intended in paragraph (1) has been registered as Trademark, the Minister shall cancel and delete registration of the Trademark for the entire or a part of the same types of goods after the period of 2 (two) years as from the mark is registered as Geographical Indication.
- (3) The cancellation and deletion of registration of Trademark as intended in paragraph (2) shall be notified in writing to Trademark owner or his/her Proxy by mentioning the reasons.
- (4) The cancellation and deletion of registration of Trademark as intended in paragraph (2) shall be recorded and announced in Official News of Trademark.
- (5) The cancellation and deletion of registration of Trademark as intended in paragraph (2) shall result in the end of legal protection of the Trademark for the entire or a part of the same types of goods.
- (6) Objection to the cancellation and deletion as intended in paragraph (2) can be filed to Commercial Court.
- (7) Appeal to the Supreme Court can be filed to decision of Commercial Court as intended in paragraph (6).

Article 69

- (1) The holder of Rights to Geographical Indication can file lawsuit against Geographical Indication Users who are without rights in the form of application for compensation and discontinuance of use as well as destruction of Geographical Indication label which is used without rights.
- (2) To prevent larger losses to the party whose rights is offended, judge can order offender to stop activities on production, reproduction, as well as can order destruction of Geographical Indication label which is used without rights.

CHAPTER XI GUIDANCE AND SUPERVISION ON GEOGRAPHICAL INDICATION

Part One Guidance

Article 70

- (1) Guidance of Geographical Indication shall be conducted by central government and/or regional government in accordance with their authorities.

- (2) Guidance as intended in paragraph (1) shall cover:
- a. preparation for the fulfillment of the requirements for Application for Geographical Indication;
 - b. Application for registration of Geographical Indication;
 - c. utilization and commercialization of Geographical Indication;
 - d. socialization and understanding of protection of Geographical Indication;
 - e. mapping and inventories of potential of products of Geographical Indication;
 - f. training and mentoring;
 - g. monitoring, evaluation, and guidance;
 - h. legal protection; and
 - i. facilitation of development, processing, and marketing of goods and/or products of Geographical Indication.

Part Two
Supervision

Article 71

- (1) Supervision on Geographical Indication shall be performed by central government and regional government in accordance with their authorities.
- (2) Supervision as intended in paragraph (1) can also be conducted by the society.
- (3) Supervision as intended in paragraphs (1) and (2) shall be performed to:
 - a. ensure reputation, quality, dan characteristics constituting basis for issuing Geographical Indication; and
 - b. prevent any use of Geographical Indication illegally.
- (4) Supervision result as intended in paragraph (2) shall be conveyed to the holder of rights of Geographical Indication and/or the Minister.
- (5) Further provisions on supervision as intended in paragraph (1) up to paragraph (4) shall be stipulated in Regulation of the Minister.

CHAPTER XII
DELETION AND CANCELLATION OF REGISTRATION OF TRADEMARK

Part One
Deletion

Article 72

- (1) Deletion of registered Trademark can be filed by the related Trademark owner to the Minister.
- (2) Application for deletion as intended in paragraph (1) can be filed by Trademark owner or through his/her Proxy, whether for a part of or the entire types of goods and/or services.
- (3) In the event that Trademark as intended in paragraph (1) is still bound to License agreement, deletion can only be performed if it is approved in writing by Licensee.
- (4) Exclusion from the approval as intended in paragraph (3) shall only be possible if in License agreement, Licensee firmly approves to waive the approval.
- (5) The deletion of registration of Trademark as intended in paragraph (1) shall be recorded and announced in Official News of Trademark.
- (6) The deletion of registered Trademark can be performed at the initiative of the Minister.
- (7) The deletion of registered Trademark at the initiative of the Minister can be conducted if:
 - a. it has resemblance substantially and/or entirely with Geographical Indication;
 - b. it is contrary to state ideology, laws and regulations, morality, religion, decency, and public order; or
 - c. it has similarity on the whole with expression of traditional culture, non-object cultural heritage, or name or logo already constituting tradition handed down from generation to generation.
- (8) The deletion as intended in paragraphs (6) and (7) can be done after obtaining recommendation from Trademark Appeal Commission.
- (9) Trademark Appeal Commission shall give recommendation as intended in paragraph (8) based on request of the Minister.

Article 73

- (1) Trademark Owner who objects to decision on deletion of registered Trademark at the initiative of the Minister as intended in Article 72 paragraphs (6) and (7) can file lawsuit through State Administrative Court.
- (2) The party who objects to decision of Court Administrative State as intended in paragraph (1) can only file appeal to the Supreme Court.

Article 74

- (1) Deletion of registered Trademark can also be filed by the third party which has interest in the form of lawsuit to Commercial Court for the reasons that the Trademark is not used in 3 (three) consecutive years in goods and/or services trade as from the date of the last registration or use.

- (2) The reasons that Trademark is not used as intended in paragraph (1) shall not be applicable in the event that there are:
 - a. import prohibition;
 - b. prohibition relating to permit for goods circulation which uses the related Trademark or decision of the authorized party which is temporary; or
 - c. other similar prohibitions stipulated in Government Regulation.
- (3) The deletion of registered Trademark as intended in paragraph (1) shall be recorded and announced in Official News of Trademark.

Article 75

The provisions as intended in Article 74 shall be applicable *mutatis mutandis* to deletion of registered Collective Trademark.

Part Two Cancellation

Article 76

- (1) Lawsuit against the cancellation of registered Trademark can be filed by the interested party based on the reasons as intended in Articles 20 and/or 21.
- (2) Unregistered Trademark Owner can file lawsuit as intended in paragraph (1) after filing Application to the Minister.
- (3) Lawsuit against the cancellation shall be filed to Commercial Court against registered Trademark owner.

Article 77

- (1) Lawsuit against the cancellation of registration of Trademark can only be filed in the period of 5 (five) years as from the date of registration of Trademark.
- (2) Lawsuit against cancellation can be filed without time limit if there is element of bad faith and/or the related Trademark is contrary to state ideology, laws and regulations, morality, religion, decency, and public order.

Article 78

- (1) Decision of Commercial Court on lawsuit against the cancellation as intended in Article 76 paragraph (3) can be subject to appeal to the Supreme Court.
- (2) Court registrar shall immediately convey decision to the parties in dispute.

Article 79

The provisions on reasons for lawsuit against the cancellation as intended in Article 76 shall be applicable *mutatis mutandis* to registered Collective Trademark.

CHAPTER XIII

DOCUMENTATION AND INFORMATION NETWORKS SYSTEM ON TRADEMARK AND GEOGRAPHICAL INDICATION

Article 80

Documentation and information networks system on Trademark and Geographical Indication as stipulated in this Law shall be performed by the Minister.

Article 81

Documentation and information networks system on Trademark and Geographical Indication as intended in Article 80 shall be organized through electronic and/or non-electronic facilities which can be accessed nationally and internationally.

CHAPTER XIV COSTS

Article 82

- (1) All costs which must be paid in this Law shall be stipulated in Government Regulation.
- (2) All costs already paid through state treasury cannot be withdrawn.
- (3) The Directorate General of Intellectual Property with approval of the Minister and the Minister of Finance can use receipt originating from costs as intended in paragraph (1) in accordance with the provisions of laws and regulations.

CHAPTER XV SETTLEMENT OF DISPUTE

Part One Lawsuit against Trademark Infringement

Article 83

- (1) Registered Trademark Owner and/or Licensee of registered Trademark can file lawsuit against other parties which without rights use Trademark having resemblance substantially or entirely for similar goods and/or services in the form of:
 - a. claim for compensation; and/or
 - b. discontinuance of all actions relating to the use of the Trademark.
- (2) Lawsuit as intended in paragraph (1) can also be filed by famous Trademark owner based on court decision.
- (3) Lawsuit as intended in paragraph (1) shall be filed to Commercial Court.

Article 84

- (1) While still undergoing examination and to prevent larger losses, Trademark owner and/or Licensee as plaintiff can file application to the judge to stop

activities on production, circulation, and/or trade of goods and/or services which use the Trademark without rights.

- (2) In the event that defendant is prosecuted to deliver goods which use Trademark without rights, judge can order delivery of goods or value of the goods after court decision has binding legal force.

Part Two Procedures for Lawsuit in Commercial Court

Article 85

- (1) Lawsuit as intended in Article 30 paragraph (3), Articles 68, 74, and 76 shall be filed to the chairman of Commercial Court in jurisdiction of defendant's residence or domicile.
- (2) In the event that one of the parties resides outside the territory of the Unified State of the Republic of Indonesia, the lawsuit shall be filed to the Chairman of Commercial Court of Central Jakarta.
- (3) Registrar shall register lawsuit on the date of filing of the related lawsuit, and plaintiff shall be provided written receipt sheet which is signed by registrar with the date the same as the date of registration of lawsuit.
- (4) Registrar shall deliver lawsuit to the chairman of Commercial Court in the period by no later than 2 (two) days as from registration of lawsuit.
- (5) In the period by no later than 3 (three) days as from the date of conveyance of lawsuit as intended in paragraph (4), the chairman of Commercial Court shall study lawsuit and shall appoint council of judges to stipulate day of hearing.
- (6) Summons of the parties shall be conducted by bailiff by no later than 7 (seven) days after registration of lawsuit.
- (7) Examination hearing until lawsuit decision as intended in paragraph (1) must be settled by no later than 90 (ninety) days after case is received by the council which examines the case and can be extended for a maximum of 30 (thirty) days upon the approval of the Chairman of the Supreme Court.
- (8) Decision on lawsuit as intended in paragraph (1) which completely indicates legal considerations which constitutes basis for the decision must be read out in a hearing open to the public.
- (9) The content of decision of Commercial Court as intended in paragraph (8) must be conveyed by bailiff to the parties by no later than 14 (fourteen) days after decision of lawsuit as intended in paragraph (1) is read out.

Article 86

The provisions on the requirements and procedures for lawsuit of Trademark as intended in Article 85 shall be applicable *mutatis mutandis* to the requirements and procedures for lawsuit of Geographical Indication.

Part Three Appeal to the Supreme Court

Article 87

Decision of Commercial Court as intended in Article 85 paragraph (8) can only be subject to appeal to the Supreme Court.

Article 88

- (1) Application for appeal to the Supreme Court as intended in Article 87 shall be filed by no later than 14 (fourteen) days after the date of decision which is applied for appeal to the Supreme Court is read out or notified to the parties by registering to registrar in Commercial Court which has decided the lawsuit.
- (2) Registrar shall register application for appeal to the Supreme Court on the date of filing of the related application, and appeal petitioner shall be provided written receipt sheet which is signed by registrar with the date the same as the date of receipt of registration.
- (3) Registrar must notify application for appeal to the Supreme Court as intended in paragraph (2) to appeal to the Supreme Court appellee by no later than 7 (seven) days after application for appeal to the Supreme Court is registered.
- (4) Appeal petitioner must have delivered memory of appeal to the Supreme Court to registrar in a maximum period of 14 (fourteen) days as from the date of application for appeal to the Supreme Court is registered as intended in paragraph (1).
- (5) Registrar must deliver memory of appeal to the Supreme Court to appeal to the Supreme Court appellee by no later than 2 (two) days after memory of appeal to the Supreme Court is received by registrar.
- (6) Appellee of appeal to the Supreme Court can file counter memory of appeal to the Supreme Court to registrar by no later than 14 (fourteen) days after the date the appeal to the Supreme Court appellee receives memory of appeal to the Supreme Court as intended in paragraph (5) and registrar must deliver counter memory of appeal to the Supreme Court to appeal petitioner by no later than 7 (seven) days after counter memory of appeal to the Supreme Court is received by registrar.
- (7) Registrar must deliver the related case files of appeal to the Supreme Court to the Supreme Court by no later than 7 (seven) days after the lapse of the period as intended in paragraph (6).
- (8) Examination hearing and decision on Application for appeal to the Supreme Court must be settled by no later than 90 (ninety) days after the date of the receipt of Application for appeal to the Supreme Court by Council of Appeal to the Supreme Court.
- (9) Decision on application for appeal to the Supreme Court as intended in paragraph (8) which completely indicates legal considerations constituting basis for the decision must be read out in a hearing which is open to the public.
- (10) Registrar of the Supreme Court must deliver content of appeal to the Supreme Court decision to registrar by no later than 7 (seven) days after the date of reading out of decision on Application for appeal to the Supreme Court.

- (11) Bailiff must deliver content of appeal to the Supreme Court decision as intended in paragraph (10) to appeal petitioner and appeal to the Supreme Court appellee by no later than 2 (two) days after the receipt of appeal to the Supreme Court decision.
- (12) Remedies in the form of judicial review against appeal to the Supreme Court decision as intended in paragraph (8) shall be performed based on the provisions of laws and regulations.

Article 89

Decision of Commercial Court already having binding legal force can be subject to application for judicial review.

Article 90

The provisions on filing of appeal to the Supreme Court as intended in Article 88 and filing of judicial review as intended in Article 89 shall be applicable *mutatis mutandis* to filing of lawsuit against Geographical Indication.

Part Four Procedures for Implementation of Decision

Article 91

- (1) Implementation of cancellation based on court decision shall be performed after the Minister receives official copy of decision already having binding legal force and shall be announced in Official News of Trademark.
- (2) Further provisions on the implementation of cancellation as intended in paragraph (1) and deletion by the Minister as intended in Article 72 up to Article 75 shall be stipulated in Government Regulation.

Article 92

- (1) The cancellation or deletion of registration of Trademark shall be conducted by the Minister by deleting the related Trademark by giving notes on the reasons and the date of cancellation or deletion.
- (2) The cancellation or deletion of registration as intended in paragraph (1) shall be notified in writing to Trademark owner or his/her Proxy by mentioning the reasons for cancellation or deletion and confirmation that as from the date of deletion, the related certificate of Trademark is declared null and void.
- (3) The deletion of registered Trademark as intended in paragraph (1) shall be announced in Official News of Trademark.

Part Five Alternative of Settlement of Dispute

Article 93

In addition to the settlement of lawsuit as intended in Article 83 the parties can settle dispute through arbitration or alternatives of settlement of dispute.

CHAPTER XVI TEMPORARY STIPULATION OF COURT

Article 94

Based on sufficient initial proofs, registered Trademark owner whose right is harmed can ask judge of Commercial Court to issue letter of temporary stipulation on:

- a. prevention of entry of goods which are suspected of result of infringement against Rights to Trademark to trade channel;
- b. storage of proofs relating to infringement against Rights to the Trademark;
- c. protection and prevention of lost evidences by offender; and/or
- d. discontinuance of infringement to prevent larger losses.

Article 95

Application for temporary stipulation shall be filed in writing to Commercial Court in jurisdiction of place of infringement against Trademark with the following requirements:

- a. attaches proof of ownership of Trademark;
- b. attaches proof of strong early indication of infringement against Trademark;
- c. attaches clear explanations on goods and/or documents requested, sought, collected, and secured for authentication; and
- d. delivers guaranty in the form of cash and/or bank guaranty proportional to value of goods which will be subject to temporary stipulation.

Article 96

- (1) In the event that application for temporary stipulation meets the requirements as intended in Article 95, registrar of Commercial Court shall record application for temporary stipulation and must deliver the application in a maximum period of 1x24 (one times twenty four) hours to the chairman of Commercial Court.
- (2) In a maximum period of 2 (two) days as from the date of the receipt of application for temporary stipulation as intended in paragraph (1), the chairman of Commercial Court shall appoint judge of Commercial Court to examine application for temporary stipulation.
- (3) In a maximum period of 2 (two) days as from the date of appointment as intended in paragraph (2), judge of Commercial Court must decide to approve or reject application for temporary stipulation.
- (4) In the event that application for temporary stipulation is approved, judge of Commercial Court shall issue letter of temporary stipulation of court.
- (5) Letter of temporary stipulation of court as intended in paragraph (4) shall be notified to the party subject to measures on temporary stipulation of court in a maximum period of 1x24 (one times twenty four) hours.

- (6) In the event that application for temporary stipulation is rejected, judge of Commercial Court shall notify the rejection to applicant of temporary stipulation which is accompanied with its reasons.

Article 97

- (1) In the event that Commercial Court issues letter of temporary stipulation as intended in Article 96 paragraph (4) Commercial Court shall invite the party subject to temporary stipulation in a maximum period of 7 (seven) days as from the date of issuance of letter of temporary stipulation to ask for his/her explanations.
- (2) The party subject to temporary stipulation can deliver explanations and proofs of Trademark in a maximum period of 7 (seven) days as from the date of the receipt of summons as intended in paragraph (1).
- (3) In a maximum period of 30 (thirty) days as from the date of issuance of letter of temporary stipulation, judge of Commercial Court must decide to confirm or cancel temporary stipulation of court.
- (4) In the event that temporary stipulation of court is confirmed, then:
- a. guaranty already paid must be refunded to applicant of stipulation;
 - b. applicant of stipulation can file claim for compensation for infringement against Trademark; and/or
 - c. applicant of stipulation can report infringement against Trademark to investigator of the National Police of the Republic of Indonesia or civil servant investigator.
- (5) In the event that temporary stipulation of court is cancelled, guaranty already paid must be immediately delivered to the party subject to temporary stipulation as compensation as a result of the temporary stipulation.

Article 98

The provisions on temporary stipulation as intended in Article 94 up to Article 97 shall be applicable *mutatis mutandis* to Rights to Geographical Indication.

CHAPTER XVII INVESTIGATION

Article 99

- (1) In addition to investigator of the National Police of the Republic of Indonesia, certain civil servant investigator within ministry in charge of governmental affairs in the field of law shall be given special authorities as investigator as intended in Law which stipulates criminal procedural law to perform investigation on criminal acts of Trademark.
- (2) Investigator as intended in paragraph (1) shall be authorized to perform:

- a. examination on the accuracy of report or information in respect of criminal acts in the field of Trademark;
 - b. examination on Person who is suspected of committing criminal acts in the field of Trademark;
 - c. request for information and proofs of Person in connection with criminal acts in the field of Trademark;
 - d. examination on bookkeeping, recording, and other documents in connection with criminal acts in the field of Trademark;
 - e. search and examination in places which are suspected of containing evidences, bookkeeping, recording, and other documents relating to criminal acts in the field of Trademark;
 - f. confiscation of materials and goods of result of infringement which can serve as proofs in case of criminal acts in the field of Trademark;
 - g. request for explanations of expert in the context of implementation of investigative duties of criminal acts in the field of Trademark;
 - h. request for help to the related agencies to perform arrest, detention, stipulation of the wanted list, and prevention of perpetrator of criminal acts in the field of Trademark; and
 - i. discontinuance of investigation if there are no sufficient proofs of criminal acts in the field of Trademark.
- (3) In conducting investigation, civil servant investigator can ask for help of investigator of the National Police of the Republic of Indonesia for a smooth investigation.
 - (4) Civil servant investigator shall notify the start of investigation to public prosecutor with a copy addressed to investigator of the National Police of the Republic of Indonesia.
 - (5) Investigation result already conducted by civil servant investigator shall be conveyed to public prosecutor through investigator of the National Police of the Republic of Indonesia.

CHAPTER XVIII CRIMINAL PROVISIONS

Article 100

- (1) Anyone who without rights uses Trademark which is the same on the whole as registered Trademark owned by other parties for similar goods and/or services which are produced and/or traded, shall be sentenced to a maximum imprisonment of 5 (five) years and/or a maximum criminal penalty of Rp2,000,000,000.00 (two billion rupiah).
- (2) Anyone who without rights uses Trademark having resemblance substantially with registered Trademark owned by other parties for similar goods and/or services which are produced and/or traded, shall be sentenced to a maximum

imprisonment of 4 (four) years and/or a maximum penalty of Rp2,000,000,000.00 (two billion rupiah).

- (3) Anyone who violates the provisions as intended in paragraphs (1) and (2), whose type of goods results in health problems, environmental problems, and/or human death shall be sentenced to a maximum imprisonment of 10 (ten) years and/or a maximum penalty of Rp5,000,000,000.00 (five billion rupiah).

Article 101

- (1) Anyone who without rights uses mark having resemblance on the whole with Geographical Indication owned by other parties for goods and/or products which are the same as or similar to registered goods and/or products, shall be sentenced to a maximum imprisonment of 4 (four) years and/or a maximum penalty of Rp2,000,000,000.00 (two billion rupiah).
- (2) Anyone who without rights uses mark having resemblance substantially with Geographical Indication owned by other parties for goods and/or products which are same as or similar to registered goods and/or products shall be sentenced to a maximum imprisonment of 4 (four) years and/or a maximum penalty of Rp.2,000,000,000.00 (two billion rupiah).

Article 102

Anyone who trades goods and/or services and/or products which are known or which are reasonably suspected of knowing that the goods and/or services and/or products constitute result of criminal acts as intended in Articles 100 and 101 shall be sentenced to a maximum imprisonment of 1 (one) year or a maximum penalty of Rp200,000,000.00 (two hundred million rupiah).

Article 103

Criminal acts as intended in Article 100 up to Article 102 shall constitute crime based on complaint.

CHAPTER XIX TRANSITIONAL PROVISIONS

Article 104

- (1) All Applications filed based on Law Number 15 Year 2001 regarding Trademark but they are not yet processed completely on the date of the coming into effect of this Law shall be settled based on the provisions of the aforementioned Law.
- (2) All Trademarks already registered based on Law Number 15 Year 2001 regarding Trademark and still applicable at the time of the promulgation of this Law shall be declared still applicable under this Law for the remaining period of registration.

Article 105

Trademark dispute still in process in court as this Law is applicable shall remain to be processed based on Law Number 15 Year 2001 regarding Trademark until it obtains decision having binding legal force.

CHAPTER XX

CLOSING PROVISIONS

Article 106

As this Law comes into effect, all laws and regulations constituting implementation regulations of Law Number 15 Year 2001 regarding Trademark (State Gazette of the Republic of Indonesia Year 2001 Number 110, Supplement to State Gazette of the Republic of Indonesia Number 4131), shall be declared still applicable insofar as not contrary to the provisions in this Law.

Article 107

As this Law comes into effect, Law Number 15 Year 2001 regarding Trademark (State Gazette of the Republic of Indonesia Year 2001 Number 110, Supplement to State Gazette of the Republic of Indonesia Number 4131) shall be revoked and declared null and void.

Article 108

Implementation regulations of this Law must be stipulated by no later than 2 (two) years as from the promulgation of this Law.

Article 109

This Law shall come into effect on the date of its promulgation.

For public cognizance, hereby ordering the promulgation of this Law by placing it in State Gazette of the Republic of Indonesia.

Ratified in Jakarta
on November 25, 2016
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,
signed
JOKO WIDODO

Promulgated in Jakarta
on November 25, 2016
THE MINISTER OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA,
signed
YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER 252

Issued as a true copy
THE MINISTRY OF STATE SECRETARIAT OF
THE REPUBLIC OF INDONESIA
Assistant Deputy of Economy,
Deputy of Laws and Legislation Affairs,
signed and stamped
Lydia Silvanna Djaman

ELUCIDATION

ON
DRAFT LAW OF THE REPUBLIC OF INDONESIA
NUMBER 20 YEAR 2016
REGARDING
TRADEMARK AND GEOGRAPHICAL INDICATION

I. GENERAL

The influence of globalization in all fields of the society's life, whether in the field of social, economy, or culture further encourages pace of development of the society's economy. In addition, the increasing development of information technology and facilities of transportation, makes activities in trade sector whether goods or services experience a very rapid development. Tendency of increasing flow of trade of goods and services will keep taking place in line with increasing national economic growth. With due observance of the fact and such tendency, it can be understood if there is demand of more adequate arrangement in the context of creation of a certainty and a strong legal protection. Moreover some countries increasingly rely their economic activities and trade on products produced based on the capacity of human intellectuality. Considering the fact, Trademark as one of the works of human intellectual which closely relates to economic activities and trade plays a very important role.

Activities on goods and services trade occur cross borders of the territory of country. Therefore mechanism of registration of international Trademark becomes one of the systems which should be utilized to protect national Trademark in international world. Registration system of international Trademark based on Madrid Protocol constitutes facility which highly helps national businessmen to register their Trademark overseas easily and with reasonable costs.

In addition, Indonesia's participation in ratifying Convention on Establishment of *World Trade Organization* which also covers agreement on *Trade Related Aspect of Intellectual Property Rights/TRIPs* as ratified in Law Number 7 Year 1994 regarding Ratification of *Agreement Establishing the World Trade Organization*, requires Indonesia to comply with and implement the content of the international agreement. Ratification of the regulation encourages participation of Indonesia to ratify *Paris Convention for the Protection of Industrial Property* (Paris Convention) already ratified in Presidential Decree Number 15 Year 1997 and *Trademark Law Treaty* which is ratified in Presidential Decree Number 17 Year 1997. The international agreement brings about the obligation for Indonesia to adjust Trademark Law applicable to the provisions in the international agreement already ratified.

One of the developments in the field of Trademark is protection of new types of Trademark or referred to as non-traditional Trademark. In this Law, the scope of Trademark which is protected also covers Trademark of voice, three-dimension Trademark, hologram Trademark, which are included in the category of non-traditional Trademark.

Then, some improvements are required to further improve services to the society applying for Trademark. For easier registration of Trademark for Applicant, it requires some revisions or changes in the form of simplification of process and procedures for registration of Trademark. Arrangement of minimum requirements for Application will give convenience in filing of Application by just filling out Application form, attaching label or example of Trademark which is

applied for registration, and paying costs of Application. By meeting the completeness of minimum requirements for Application, an Application for Trademark will be provided Date of Receipt or *filing date*.

The change of flow of Trademark registration process in this Law is aimed at further accelerating settlement of Trademark registration process. Announcement of Application which is conducted before substantive examination is intended that substantive examination can be done at the same time if there are objection and/or protest so as to not require re-examination.

With respect to Application for extension of Trademark registration, Trademark owners should be given additional opportunity to perform extension of registration of their Trademark for 6 (six) months after the expiration of the period of Trademark registration. The provisions are intended that registered Trademark owners do not easily loss Rights to their Trademark as a result of late filing of extension of Trademark registration.

In addition, to give more legal protection to registered Trademark owners from Trademark infringement by other parties, criminal sanctions against the Trademark infringement should be aggravated especially those which threat human health, the environment, and which can result in death. Considering that Trademark issues closely relate to economic factor, then criminal sanctions in the form of penalty are aggravated in this Law.

One of the matters stipulated in this Law is Geographical Indication, considering that Geographical Indication is national potential which can become leading commodity, whether in domestic or international trade. Therefore, this Law is stipulated under the name of Law on Trademark and Geographical Indication.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Self-explanatory.

Article 3

Referred to as "registered" shall be after Application undergoes formality examination process, announcement process, and substantive examination process as well as obtains approval from the Minister to issue certificate.

Article 4

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Referred to as "Trademark label" shall be example of Trademark or tag which is attached to Application for Trademark registration.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Referred to as "characteristic of Trademark" shall be in the form of drawing/painting which can be seen from the front, the side, the top, and below.

Paragraph (7)

Self-explanatory.

Paragraph (8)

Self-explanatory.

Paragraph (9)

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Paragraph (1)

Principally, Application can be filed for more than 1 (one) class of goods and/or services in accordance with the provisions of *Trademark Law Treaty* already ratified in Presidential Decree Number 17 Year 1997. It is aimed at facilitating Trademark owners which will use their Trademark for several goods and/or services.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 7

Paragraph (1)

These provisions shall also be applicable to Application with Priority Right.

Paragraph (2)

Address of Applicant's Proxy shall be used as address of correspondence to Applicant, whether letters relating to Application or summons of court.

Article 8

Self-explanatory.

Article 9

These provisions shall be aimed at accommodating state interest which only becomes a member of Paris Convention or a member of agreement on establishment of world trade organization.

Referred to as "Paris Convention" shall be *Paris Convention for the Protection of Industrial Property* Year 1883 along with all other agreements which change or complete it which indicate the following provisions:

- a. the period to file request for Trademark registration with Priority Right shall be 6 (six) months;
- b. the period of 6 (six) months shall be as from the date of filing of the first request in country of origin;
- c. the date of filing of Application shall not be included in calculation of the period of 6 (six) months; and
- d. in the event that the last period is holiday, filing of request for Trademark registration the protection of which is asked, the period shall be extended until the beginning of the next workday.

Article 10

Paragraph (1)

Referred to as "proof of Priority Right" shall be in the form of copy of Application for Trademark registration which is the first time filed in member country of Paris Convention or in member of world trade organization.

Paragraph (2)

Translation shall be performed by sworn translator.

Paragraph (3)

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.

Article 13

Paragraph (1)

Date of Receipt shall be known as *filing date*.

Date of Receipt can be the same as the date of filing of Application if the minimum requirements are met at the time of filing of Application. If the fulfillment of completeness of the requirements just occurs on other date after the date of filing, the other date shall be stipulated as Date of Receipt.

Paragraph (2)

Self-explanatory.

Article 14

Self-explanatory.

Article 15

Self-explanatory.

Article 16

Paragraph (1)

Referred to as "any party" shall be the party other than Applicant or his/her Proxy.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 17

Self-explanatory.

Article 18

Examples of correction of writing of name and/or address shall be as follows: Fahrul Arifin is corrected to become Fachrul Arifin, and Jl. Nuri No. 445 is corrected to become Jl. Nuri 10 No. 445.

Article 19

Self-explanatory.

Article 20

Sub-article a

Referred to as "contrary to public order" shall mean not in line with regulations existing in the society which are comprehensive such as offending feeling of the society or group, offending politeness or general ethics of the society, and offending peace of the society or group.

Sub-article b

The trademark relates to or only mentions goods and/or services which are applied for registration.

Sub-article c

Referred to as "indicates elements which can be misleading" shall be such as Trademark "Kecap No. 1" cannot be registered because it misleads the society in connection with quality of goods, Trademark "netto 100 gram" cannot be registered because it misleads the society in connection with measure of goods.

Sub-article d

Referred to as "indicates explanations not in accordance with quality, benefits, or efficacy of goods and/or services produced" shall be indicating explanations not in accordance with quality, benefits, efficacy, and/or risks of products. For example: medicines which can cure one thousand and one diseases, cigarette which is safe for health.

Sub-article e

Mark shall be deemed has no distinguishing power if the mark is too simple such as one dash or one full stop, or too complicated so that it is unclear.

Sub-article f

Referred to as "general name" among other things, shall be Trademark "rumah makan" for restaurant, Trademark "warung kopi" for coffee. As for "symbol of public property" among other things shall be "symbol of skull" for hazardous goods, symbol of "sign of poison" for chemical, "symbol of spoon and fork" for restaurant services.

Article 21

Paragraph (1)

Referred to as "resemblance substantially" shall be similarity caused by dominant element between one and other Trademark that brings about impression of resemblance, whether in shape, manner of placement, manner of writing or combination of element, or resemblance of speech sound, of the Trademark.

Sub-paragraph a

Referred to as "Trademark which is applied first" shall be Application for Trademark registration which has been approved to be registered.

Sub-paragraph b

Rejection to Application having resemblance substantially or on the whole with famous Trademark owned by other parties for similar goods and/or services should be done with due observance of general knowledge of the society on the Trademark in the related field of business.

In addition, reputation of the Trademark which is obtained because of vigorous and massive promotion, and investment in some countries in the world conducted by owner are also observed, which is accompanied with proof of registration of the said Trademark in several countries.

If it is not deemed enough, Commercial Court can order independent institution to perform survey to obtain conclusion whether the Trademark which constitutes basis for rejection is famous or not.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

Self-explanatory.

Paragraph (2)

Sub-paragraph a

Referred to as "name of legal entity" shall be name of legal entity which is used as Trademark and which is registered.

Sub-paragraph b

Referred to as "national institutions" shall be community organizations or social-political organizations.

Sub-paragraph c
Self-explanatory.

Paragraph (3)

Referred to as "Applicant having bad faith" shall be Applicant which is reasonably suspected in registering his/her Trademark of having intention to imitate, plagiarize, or follows Trademarks of other parties for his/her business interest which brings about condition of unfair business competition, outwits, or misleads consumers.

For example, Application for Trademark in the form of writing, painting, logo, or composition of color which are the same as Trademarks owned by other parties or Trademarks already known by the society generally for many years, are imitated in a such way that have resemblance substantially or the whole with the Trademarks already known. Of the example, there has been bad faith of Applicant because at least it is known there is intentionality in imitating the Trademarks already known.

Paragraph (4)
Self-explanatory.

Article 22
Self-explanatory.

Article 23
Self-explanatory.

Article 24
Self-explanatory.

Article 25
Paragraph (1)
Self-explanatory.

Paragraph (2)
Sub-paragraph a
Self-explanatory.

Sub-paragraph b
Self-explanatory.

Sub-paragraph c
Self-explanatory.

Sub-paragraph d
Self-explanatory.

Sub-paragraph e
Self-explanatory.

Sub-paragraph f
Referred to as "date of registration" shall be the date of registration of Trademark.

Sub-paragraph g
Self-explanatory.

Sub-paragraph h
Self-explanatory.

Paragraph (3)
Self-explanatory.

Article 26
Self-explanatory.

Article 27
Paragraph (1)
If the wrong typing of certificate is not the Applicant's mistake, correction of the certificate shall be free of charge.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Self-explanatory.

Article 28
Paragraph (1)
Those constituting basis for filing appeal request shall only be limited to substantive reasons or considerations.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Self-explanatory.

Paragraph (4)
Appeal request must indicate more in-depth reasons for objection to rejection. The provisions are required to prevent possibility of appeal which is used as tool to complete the lack of requirements in the Application, considering that opportunity to complete the lack of requirements in the Application has been provided in the previous phase.

Article 29
Self-explanatory.

Article 30
Self-explanatory.

Article 31
Self-explanatory.

Article 32
Self-explanatory.

Article 33

Paragraph (1)

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Expert who can be appointed as member of Trademark Appeal Commission can originate from various circles, whether from the government or private parties.

Sub-paragraph d

Referred to as "senior Examiner" shall be Examiner who has experience in examination on Application and who holds functional position at least Senior Trademark Examiner Expert.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

The provisions on odd number of member of council shall be intended so that if there is different opinion, decision can be made based on majority vote.

Article 34

Self-explanatory.

Article 35

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Self-explanatory.

Article 38

Self-explanatory.

Article 39

Self-explanatory.

Article 40

Self-explanatory.

Article 41

Paragraph (1)

Sub-paragraph a

Self-explanatory.

Sub-paragraph b
Self-explanatory.

Sub-paragraph c
Self-explanatory.

Sub-paragraph d
Self-explanatory.

Sub-paragraph e
Self-explanatory.

Sub-paragraph f
Referred to as "other causes which are justified by laws and regulations" shall be insofar as not contrary to laws and regulations, such as change of ownership of Trademark because of dissolution of legal entity, restructuring, merger, or acquisition.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Self-explanatory.

Paragraph (4)
The said documents, among other things, shall be certificate of Trademark and other proofs which support the ownership of rights.

Paragraph (5)
Self-explanatory.

Paragraph (6)
The determination that legal consequences are only applicable after transfer of Rights to Trademark is recorded, shall be aimed at facilitating supervision and realizing legal certainty.

Paragraph (7)
Self-explanatory.

Paragraph (8)
Trademark still in Application process can also be applied for recording of transfer of rights.

Paragraph (9)
Self-explanatory.

Article 42

Paragraph (1)
Self-explanatory.

Paragraph (2)
Referred to as "unless as otherwise agreed upon" shall be license agreement which is enforced does not only cover the territory of

the Unified State of the Republic of Indonesia or only covers a part of the territory of the Unified State of the Republic of Indonesia.

Paragraph (3)
Self-explanatory.

Paragraph (4)
Self-explanatory.

Paragraph (5)
Self-explanatory.

Paragraph (6)
Self-explanatory.

Article 43
Self-explanatory.

Article 44
In the event that registered Trademark owners do not use their own Trademark in goods and/or services trade in the territory of the Unified State of the Republic of Indonesia, the use of the Trademark by Licensee is the same as the use by the related registered Trademark owner.

It relates to the provisions on possibility of deletion of registration of Trademark which is not used in goods and/or services trade in the period of 3 (three) consecutive years.

Article 45
Self-explanatory.

Article 46
Paragraph (1)
Self-explanatory.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Sub-paragraph a
With the provisions among other things on nature, general characteristics, or quality of goods and/or services as well as supervision, it means that there are requirements that must be followed by the party who also uses the related Collective Trademark.

Sub-paragraph b
Self-explanatory.

Sub-paragraph c
Self-explanatory.

Paragraph (4)
Self-explanatory.

Article 47
Self-explanatory.

Article 48
Self-explanatory.

Article 49
Self-explanatory.

Article 50
The reasons why Collective Trademark cannot be licensed shall be because of collective ownership and if there are other parties which will use the Trademark, it is unnecessary for them to obtain License from Collective Trademark owner, it is enough for them to join it.

Article 51
Self-explanatory.

Article 52
Paragraph (1)
Self-explanatory.

Paragraph (2)
Sub-paragraph a
Self-explanatory.

Sub-paragraph b
Self-explanatory.

Sub-paragraph c
Referred to as "real industrial or commercial business activities in the territory of the Unified State of the Republic of Indonesia" shall be business activity which is really real, concrete, dan effective in the territory of the Unified State of the Republic of Indonesia.

Paragraph (3)
Self-explanatory.

Paragraph (4)
Self-explanatory.

Article 53
Paragraph (1)
Self-explanatory.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Sub-paragraph a
Institutions which represent the society in certain geographical area, among other things, shall be associations of producers, cooperatives, and the

community of protection of geographical indication (MPIG).

Figure 1

Referred to as "natural resource" shall be everything which originates from the nature which can be used to meet the need for human living which covers not only biotic components, such as animal, plants, dan microorganism but also abiotic components such as oil, natural gas, various types of metal, water, dan land.

Figure 2

Self-explanatory.

Figure 3

Referred to as "result of industry" shall be result of human processing in the form of raw goods to become finished goods, among other things, Tunun Gringsing, Tenun Sikka.

Sub-paragraph b

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 54

Self-explanatory.

Article 55

Self-explanatory.

Article 56

Self-explanatory.

Article 57

Self-explanatory.

Article 58

Self-explanatory.

Article 59

Paragraph (1)

Self-explanatory.

Paragraph (2)

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

Referred to as "other competent experts" shall be academicians or practitioners who have skill in their field in connection with Geographical Indication.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 60

Self-explanatory.

Article 61

Self-explanatory.

Article 62

Self-explanatory.

Article 63

Self-explanatory.

Article 64

Indication of origin is not the same as Geographical Indication because indication of origin only identifies origin where the goods are produced which does not relate to natural factor.

For example, camera of Nikon trademark originates from Japan however it is also produced by its factory in China by License and "*Made in China*" is written down on the camera of Chinese products. "*Made in China* label" is indication of origin. Right of indication of origin occurs in line with realization of object and not by registration, it is different from protection of Geographical Indication which is constitutive and requires registration.

Article 65

Self-explanatory.

Article 66

Self-explanatory.

Article 67

Self-explanatory.

Article 68

Self-explanatory.

Article 69

Self-explanatory.

Article 70

Paragraph (1)

Referred to as "central government" shall be the ministry and/or institutions having duties and responsibilities in the field of law, domestic administration, foreign relations, agriculture, the environment, industry, trade, creative economy, tourism, research and technology, maritime affairs, and other related fields.

Paragraph (2)

Self-explanatory.

Article 71

Self-explanatory.

Article 72

Self-explanatory.

Article 73

Self-explanatory.

Article 74

Self-explanatory.

Article 75

Self-explanatory.

Article 76

Paragraph (1)

Referred to as "stakeholders" among other things, shall be registered Trademark owner, public prosecutor, foundations/institutions in the field of consumers, and religious council/institutions.

Paragraph (2)

Referred to as "unregistered Trademark owner" among other things, shall be Trademark owner having good faith but unregistered or famous Trademark owner but his Trademark is not registered.

Paragraph (3)

Self-explanatory.

Article 77

Self-explanatory.

Article 78

Self-explanatory.

Article 79

Self-explanatory.

Article 80

Self-explanatory.

Article 81

Self-explanatory.

Article 82

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

In this Law, the provisions on possibility to use a part of Non-Tax State Revenues (PNBP) by the Directorate General of Intellectual Property originating from all costs relating to Trademark and Geographical Indication are stipulated.

Referred to as "uses receipt" shall be the use of PNBP based on the system and mechanism applicable. In this case, the entire receipts are directly deposited to state treasury as PNBP.

Article 83

Paragraph (1)

Self-explanatory.

Paragraph (2)

The granting of right to file civil lawsuit based on fraud which is committed by other parties shall be aimed at giving legal protection to owners of famous Trademark even though they are not yet registered.

Paragraph (3)

Self-explanatory.

Article 84

Self-explanatory.

Article 85

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Referred to as "day" shall be calendar day.

Paragraph (5)

Referred to as "day" shall be calendar day.

Paragraph (6)

Referred to as "day" shall be calendar day.

Paragraph (7)

Referred to as "day" shall be calendar day.

Paragraph (8)
Self-explanatory.

Paragraph (9)
Referred to as "day" shall be calendar day.

Article 86
Self-explanatory.

Article 87
Self-explanatory.

Article 88
Paragraph (1)
Referred to as "day" shall be calendar day.

Paragraph (2)
Self-explanatory.

Paragraph (3)
Referred to as "day" shall be calendar day.

Paragraph (4)
Referred to as "day" shall be calendar day.

Paragraph (5)
Referred to as "day" shall be calendar day.

Paragraph (6)
Referred to as "day" shall be calendar day.

Paragraph (7)
Referred to as "case files of appeal to the Supreme Court" shall be Request for appeal to the Supreme Court, memory of appeal to the Supreme Court, and/or counter memory of appeal to the Supreme Court as well as other documents.
Referred to as "day" shall be calendar day.

Paragraph (8)
Referred to as "day" shall be calendar day.

Paragraph (9)
Self-explanatory.

Paragraph (10)
Referred to as "day" shall be calendar day.

Paragraph (11)
Referred to as "day" shall be calendar day.

Paragraph (12)
Self-explanatory.

Article 89
Self-explanatory.

Article 90
Self-explanatory.

Article 91
Self-explanatory.

Article 92
Self-explanatory.

Article 93
Referred to as "alternatives of settlement of dispute" among other things, shall be negotiation, mediation, conciliation, and other manners which are chosen by the parties.

Article 94
Sub-article a
Referred to as goods in these provisions shall include imported goods.

Sub-article b
Self-explanatory.

Sub-article c
It is aimed at preventing offender from removing evidences.

Sub-article d
Self-explanatory.

Article 95
Sub-article a
Referred to as "proof of ownership of Trademark" shall be certificate of Trademark.

Sub-article b
Self-explanatory.

Sub-article c
The explanations shall be in the form of description on types of goods and/or services which are suspected as products of result of infringement against Trademark.

Sub-article d
Self-explanatory.

Article 96
Self-explanatory.

Article 97
Self-explanatory.

Article 98
Self-explanatory.

Article 99

Self-explanatory.

Article 100
Self-explanatory.

Article 101
Self-explanatory.

Article 102
Self-explanatory.

Article 103
Self-explanatory.

Article 104
Self-explanatory.

Article 105
Self-explanatory.

Article 106
Self-explanatory.

Article 107
Self-explanatory.

Article 108
Self-explanatory.

Article 109
Self-explanatory.

SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER
5953

NOTE

Source: LOOSE LEAF STATE SECRETARIAT YEAR 2016