

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 31 YEAR 2000
REGARDING
INDUSTRIAL DESIGNS

WITH THE MERCY OF GOD ALMIGHTY,
PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering:
- a. that to advance the industry which is competitive both in the national and international trade, it is necessary to create a conducive climate for the creations and innovations of the people in the field of industrial designs as a part of the intellectual property rights system;
 - b. that what is mentioned in the above is also stimulated by the diversity of the cultural and ethnic wealth of Indonesia which is a source for the development of industrial designs;
 - c. that Indonesia has ratified the Agreement Establishing the World Trade Organization that includes the Agreement on Trade Related Aspect of Intellectual Property Rights/TRIPS with the enactment of Law number 7 of 1994, it is necessary to regulate provisions regarding industrial designs;
 - d. that based on the considerations as referred to in items a, b and c, it is necessary to stipulate a law on Industrial Designs;
- In view of:
1. Article 5 paragraph (1), Article 20 paragraph (1) and Article 33 of the 1945 Constitution;
 2. Law no. 5 of 1984 regarding Industry (State Gazette of 1964 no. 22, Supplementary State Gazette no. 3274);
 3. Law no. 7 of 1994 regarding the Ratification of the Agreement Establishing the World Trade Organization (State Gazette of 1994 no. 57, Supplementary State Gazette no. 3564);

With the approval of
THE HOUSE OF REPRESENTATIVES
DECIDES:
To Enact: LAW ON INDUSTRIAL DESIGNS

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law:

1. Industrial Design shall mean a creation on the shape, configuration, or the composition of lines or colours, or lines and colours, or the combination thereof in a three or two dimensional form which gives aesthetic impression and can be realized in a three or two dimensional pattern and used to produce a product, goods or an industrial commodity and a handy craft.
2. Designer(s) shall mean a person or several persons who produce an industrial design.
3. Application shall mean the application for registration of industrial design that is filed at the Directorate General.
4. Applicant shall mean the party who files the application.

5. Right to Industrial Design shall mean an exclusive right granted by the State of the Republic of Indonesia to a designer for his creation for a given period to exploit his creation by himself or to give permission to another party to do so.
6. Minister shall mean the minister who heads a department of which the scope of duties and responsibilities includes the guidance in the field of intellectual property rights including industrial designs.
7. Directorate General shall mean the Directorate General of Intellectual Property Rights under the department presided over by the Minister.
8. Proxy shall mean a consultant of intellectual property rights as regulated in this Law.
9. Filing Date shall mean the date of receipt of an application that has fulfilled administrative requirements.
10. Consultant of Intellectual Property Rights shall mean a person who has expertise in the field of intellectual property rights and specifically provides services in filing and handling applications of patents, marks, industrial designs and other fields of intellectual property rights and shall be registered at the Directorate General.
11. License shall mean a permission which is granted by the Right Holder to Industrial Design to another party by means of an agreement based on the grant of right (not the transfer of right), to enjoy the economic benefit of an industrial design which is granted a protection for a given period of time and with certain requirements.
12. Priority Right shall mean the right of an applicant to file an Application deriving from a member country of the Paris Convention in order to get recognition that the Filing Date he is filing at a designated country, which is also a member of the Paris Convention or the World Trade Organization, has the same date as the Filing Date he gets in the country of origin, within the period of time as prescribed in the Paris Convention.
13. Day shall mean working day.

CHAPTER II

SCOPE OF INDUSTRIAL DESIGNS

Part One

Industrial Designs that are Granted Protection

Article 2

- (1) The Right to Industrial Design shall be granted for an Industrial Design that is new.
- (2) An Industrial Design shall be deemed new if on the Filing Date such Industrial Design is not the same as any previous disclosures.
- (3) The previous disclosure as referred to in paragraph (2) shall be one which before:
 - a. the Filing Date; or
 - b. the priority date, if the Application is filed with Priority Right
 has been announced or used in Indonesia or out side Indonesia.

Article 3

An Industrial Design shall not be deemed to have been announced if within the period of 6 (six) months at the latest before the Filing Date, such Industrial Design

- a. has been displayed in a national or international exhibition in Indonesia or overseas that is official or deemed to be official; or
- b. has been used in Indonesia by the designer in an experiment for the purposes of education, research or development.

Part Two
Industrial Designs that are not Protected

Article 4

The Right to Industrial Design shall not be granted if an Industrial Design is contrary to the prevailing laws and regulation, public order, religion, or morality.

Part Three
Period of Protection of Industrial Designs

Article 5

- (1) The protection of the Right to Industrial Design shall be granted for 10 (ten) years commencing from the Filing Date.
- (2) The date of commencement of the protection period as referred to in paragraph (1) shall be recorded in the General Register of Industrial Designs and announced in the Official Gazette of Industrial Designs.

Part Four
Subject of Industrial Designs

Article 6

- (1) Those entitled to receive the Right to Industrial Design shall be the Designer or those who receive the right from the Designer.
- (2) Where the Designers comprise several persons jointly, the Right to Industrial Design shall be granted to them jointly, unless agreed otherwise.

Article 7

- (1) Where an Industrial Design is created in an official relation with another party within the working environment, the Right Holder to Industrial Design shall be the party for whom the Industrial Design is created, unless there is another agreement between both parties without detracting the right of the designer if the use of the Industrial Design is expanded beyond the official relation.
- (2) The provision as referred to in paragraph (1) shall also apply to any Industrial Design created by other parties on the basis of an order made in an official relation.
- (3) Where an Industrial Design is created under a work relation or on the basis of an order, the party that has created the Industrial Design shall be deemed as the designer and the Right Holder to Industrial Design, unless otherwise agreed by both parties.

Article 8

The provision as referred to in Article 7 paragraphs (1) and (2) shall not nullify the right of the Designer to have his name attached in the Certificate of Industrial Design, in the General Register of Industrial Designs and in the Official Gazette of Industrial Designs.

Part Five
Scope of Right

Article 9

- (1) The Right Holder to Industrial Design shall have the exclusive right to exploit his Industrial Design and to prohibit other who without his consent make, use, sell, import, export and/or distribute the products that have been granted the Right to the Industrial Design.

- (2) Exempted from the provisions as referred to in paragraph (1) is where the use of the Industrial Design is for the purposes of experimentation and education, provided that such use does not damage the normal interest of the Right Holder to Industrial Design.

CHAPTER III
APPLICATION FOR REGISTRATION OF INDUSTRIAL DESIGN

Part One
General

Article 10

The Right to Industrial Design shall be granted on the basis of an Application.

Article 11

- (1) An Application shall be filed in writing in the Indonesian language at the Directorate General with the payment of fee as regulated in this Law.
- (2) The Application as referred to in paragraph (1) shall be signed by the Applicant or his Proxy.
- (3) The Application shall contain:
- a. the day, month, and year of Application;
 - b. the name, complete address and nationality of the Designer;
 - c. the name, complete address and nationality of the Applicant;
 - d. the name and complete address of the Proxy, if the Application is filed through a Proxy; and
 - e. the name of country and the priority date, if the Application is filed with Priority Right.
- (4) The Application as referred to in paragraph (3) shall be furnished with:
- a. a physical sample or drawing or photograph and the description of the Industrial Design being applied for registration;
 - b. a special power of attorney, if the Application is filed by a Proxy;
 - c. a statement that the Industrial Design being applied for registration is the property of the Applicant or the property of the Designer.
- (5) Where more than one Applicant files an application jointly, such Application shall be signed by one of them by attaching a written agreement from the other Applicants.
- (6) Where an Application is not filed by the Designer, such Application shall be furnished with sufficient evidence that the Applicant is entitled to the relevant Industrial Design.
- (7) Provisions regarding the procedure of Application shall be further regulated by Government Regulation.

Article 12

The party who first files an Application shall be deemed as the Right Holder to Industrial Design, unless proven otherwise.

Article 13

An Application can only be filed for:

- a. one Industrial Design, or
- b. several Industrial Designs that constitute a unity of an Industrial Design, or that have the same class.

Article 14

- (1) An Applicant who resides out side the territory of the Republic of Indonesia must file an Application through a Proxy.
- (2) The Applicant as referred to in paragraph (1) shall state and choose his legal domicile in Indonesia.

Article 15

Provisions regarding the requirements for being able to be appointed as a Consultant of Intellectual Property Rights shall be further regulated by Government Regulation, while the procedure of appointment shall be further regulated by Presidential Decree.

Part Two

Application with Priority Rights

Article 16

- (1) An Application with a Priority Right shall be filed within a period of 6 (six) months at the latest from the first Filing Date in any other country that is a member of the Paris Convention or a member of the World Trade Organization.
- (2) An Application with a Priority Right as referred to in paragraph (1) shall be furnished with the priority document legalized by the office administering the registration of Industrial Designs, accompanied by its translation in the Indonesian language within the period of 3 (three) months at the latest as of the date of expiry of filing an Application with a Priority Right.
- (3) Where the requirements as referred to in paragraph (1) and paragraph (2) are not fulfilled, the application shall be deemed to have been filed without Priority Right.

Article 17

In addition to the copy of the application as referred to in Article 16 paragraph (2), the Directorate General may ask that the Application with a Priority Right be furnished with:

- a. a complete copy of Right to Industrial Design that has been granted in connection with the first Application filed in other countries; and
- b. other valid documents needed to help make a judgment that the Industrial Design is new.

Part Three

Date of Receipt of Application

Article 18

A Filing Date shall be the date of receipt of an Application provided that the Applicant:

- a. has filled in the Application form;
- b. has attached a physical sample or drawing or photograph and a description of the Industrial Design being applied for registration; and
- c. has paid the Application fee as referred to in Article 11 paragraph (1).

Article 19

- (1) Where there are deficiencies in fulfilling the requirements for an Application as referred to in Article 11, Article 13, Article 14, Article 15, Article 16 and Article 17, the Directorate General shall notify the applicant or his Proxy that the deficiencies be remedied within the period of 3 (three) months as of the date of sending of the notification.
- (2) The period as referred to in paragraph (1) can be extended for 1 (one) month at the maximum, upon a request from the Applicant.

Article 20

- (1) Where the deficiencies as referred to in Article 19 paragraph (1) have not been remedied, the Directorate General shall notify the Applicant or his Proxy in writing that his Application is deemed withdrawn.
- (2) Where an Application is deemed withdrawn as referred to in paragraph (1), all fees that had been paid to the Directorate General cannot be reimbursed.

Part Four

Withdrawal of an Application

Article 21

An Applicant or his Proxy may file a withdrawal of an Application in writing at the Directorate General, provided that a decision has not been made upon such Application.

Part Five

Obligation to Maintain Confidentiality

Article 22

While still bound in active service and until 12 (twelve) months after the retirement or after ceasing from work from the Directorate General for whatever reason, an employee of the Directorate General or any person who due to his assignment has been working for or on behalf of the Directorate General shall not be permitted to file an Application, to obtain, to hold or to possess any right relating to an Industrial Design, unless the ownership is due to inheritance.

Article 23

As of the Filing Date of an Application, all officials at the Directorate General or any person whose duties relate to the duties of the Directorate General shall be obligated to preserve the confidentiality of an Application until the date the relevant Application is announced.

CHAPTER IV

EXAMINATION OF INDUSTRIAL DESIGNS

Part One

Administrative Examination

Article 24

- (1) The Directorate General shall conduct an examination on an Application according to the provisions as provided for in the prevailing laws and regulation.
- (2) The Directorate General shall notify the Applicant regarding the refusal of an Application if the Industrial Design falls within the criteria in Article 4 or notify the assumption that the Application is deemed withdrawn for not complying with Article 20.
- (3) The Applicant or his Proxy shall be given a chance to file an objection against the refusal or the assumption of withdrawal as referred to in paragraph (2) within a period of 30 (thirty) days at the latest as of the date of receipt of the notification.
- (4) Where the Applicant does not file any objection as referred to in paragraph (3), the decision on the refusal or the withdrawal by the Directorate General as referred to in paragraph (2) shall be permanent.
- (5) Upon the decision on the refusal or withdrawal by the Directorate General, the Applicant or his Proxy can bring a lawsuit at the Commercial Court with the procedure as regulated in this Law.

Part Two
Announcement, Substantive Examination, Grant and Refusal

Article 25

- (1) An Application which has fulfilled the requirements as referred to in Article 4 and Article 11 shall be announced by the Directorate General at the latest 3 (three) months from the Filing Date, by the placement on a medium provided exclusively for this purpose, which can be easily and clearly seen by the public.
- (2) The announcement as referred to in paragraph (1) shall contain:
 - a. the name and complete address of the Applicant;
 - b. the name and complete address of the Proxy, if the application is filed through a Proxy;
 - c. the date and number of receipt of Application;
 - d. the name of country and the priority date, if the Application is filed with a Priority Right;
 - e. the title of Industrial Design; and
 - f. drawing or photograph of Industrial Design.
- (3) Where an Application has been refused or deemed withdrawn, however registered based on the decision of the Court, the announcement as referred to in paragraph (1) and paragraph (2) shall be conducted after the Directorate General receives a copy of the decision.
- (4) At the time of filing the Application, the Applicant may request in writing that the announcement of the Application be deferred.
- (5) The deferral of the announcement as referred to in paragraph (4) shall not exceed 12 (twelve) months from the Filing Date or from the priority date.

Article 26

- (1) Starting from the commencement of the announcement as referred to in Article 25 paragraph (1), any party may file an objection that include substantive matters in writing at the Directorate General with the payment of fee as regulated in this Law.
- (2) The filing of objection as referred to in paragraph (1) must be received by the Directorate General at the latest 3 (three) months as of the date of commencement of the announcement.
- (3) The Directorate General shall notify the objection as referred to in paragraph (2) to the Applicant.
- (4) The Applicant may submit a counter against the objection as referred to in paragraph (2) at the latest 3 (three) months as of the date of sending of the notification by the Directorate General.
- (5) Where there is an objection against an Application as referred to in paragraph (1), the examiner shall conduct a substantive examination.
- (6) The Directorate General shall use the objection and the counter that had been submitted as material for consideration in examining whether to register or to refuse the application.
- (7) The Directorate General shall be obligated to produce a decision whether to approve or to refuse the objection as referred to in paragraph (1) within a period of 6 (six) months at the latest commencing from the date of the termination of the announcement period as referred to in paragraph (2).
- (8) The decision of the Directorate General as referred to in paragraph (7) shall be notified in writing to the Applicant or his Proxy at the latest 30 (thirty) days from the date of issue of the decision.

Article 27

- (1) The examiner as referred to in Article 26 paragraph (5) shall be an official at the Directorate General who holds the position of a functional official, who is appointed and dismissed with Ministerial Decree.
- (2) The examiner as referred to in paragraph (5) shall be accorded with a functional rank and allowances in accordance with the prevailing laws and regulations.

Article 28

- (1) An Applicant whose Application has been refused may file a lawsuit at the Commercial Court within the period of 3 (three) months at the latest as of the date of notification as referred to in Article 26 paragraph (8) with the procedure as regulated in this Law.
- (2) Upon an Application that has been refused based on Article 2 or Article 4, the Applicant may submit a written objection to the Directorate General, stating the reasons thereof.
- (3) Where the Directorate General is of the opinion that the Application does not comply with the provisions of Article 4, the Applicant may bring a lawsuit against the decision on refusal by the Directorate General to the Commercial Court with the procedure as regulated in this Law.

Article 29

- (1) Where there is no objection against an Application until the termination of the announcement period as referred to in Article 26 paragraph (2), the Directorate General shall issue and grant a Certificate of Industrial Design at the latest 30 (thirty) days from the date of termination of the announcement period.
- (2) The Certificate of Industrial Design shall be effective as of the Filing Date.

Article 30

- (1) Any party that needs copies of the Certificate of Industrial Design may request to the Directorate General with the payment of fee as regulated in this Law.
- (2) Provisions regarding the requirements and procedure of granting copies of the Certificate of Industrial Design shall be further regulated by Presidential Decree.

CHAPTER V

TRANSFER OF RIGHT AND LICENSE

Part One

Transfer of Right

Article 31

- (1) The Right to Industrial Design may be transferred by:
 - a. inheritance;
 - b. donation;
 - c. testament;
 - d. written agreement; or
 - e. other reasons recognized by the Law.
- (2) The transfer of Right to Industrial Design as referred to in paragraph (1) shall be furnished with the document regarding the transfer.
- (3) All forms of transfer of Right to Industrial Design as referred to in paragraph (1) shall be recorded in the General Register of Industrial Designs at the Directorate General with the payment of a fee as regulated in this Law.
- (4) The transfer of Right to Industrial Design that is not recorded in the General Register of Industrial Designs shall not have any legal consequences on any third parties.
- (5) The transfer of Right to Industrial Design as referred to in paragraph (3) shall be announced in the Official Gazette of Industrial Designs.

Article 32

The transfer of Right to Industrial Design shall not nullify the right of the Designer to have his name or other identity included in the Certificate of Industrial Design, in the Official Gazette of Industrial Designs and in the General Register of Industrial Designs.

Part Two

License

Article 33

The Right Holder to Industrial Design shall have the right to grant a license to any other party on the basis of a licensing agreement in order to perform all acts as referred to in Article 9, unless agreed otherwise.

Article 34

Without prejudice to the provisions as referred to in Article 33, the Right Holder to Industrial Design may still personally exploit the Industrial Design or give a license to a third party to exploit acts as referred to in Article 9, unless agreed otherwise.

Article 35

- (1) The agreement of a compulsory license must be recorded in the General Register of Industrial Designs at the Directorate General with the payment of fee as regulated in this Law.
- (2) A licensing agreement that is not recorded in the General Register of Industrial Designs shall not have any legal consequences on any third party.
- (3) The licensing agreement as referred to in paragraph (1) shall be announced in the Official Gazette of Industrial Designs.

Article 36

- (1) A licensing agreement shall not contain any provisions that may damage the Indonesian economy or any provisions that can create an unfair competition, as regulated in the prevailing laws and regulations.
- (2) The Directorate General must refuse any request for recording of a licensing agreement that contains the provisions as referred to in paragraph (1).
- (3) Provisions regarding the requirements and procedure of recording of licensing agreements shall be further regulated by Presidential Decree.

CHAPTER VI

CANCELLATION OF REGISTRATION OF INDUSTRIAL DESIGNS

Part One

Cancellation of Registration upon Request from the Right Holder

Article 37

- (1) The Directorate General upon a written request from the Right Holder to Industrial Design may cancel a registered Industrial Design.
- (2) The cancellation of Right to Industrial Design as referred to in paragraph (1), cannot be made if the licensee of Right to Industrial Design that is recorded in the General Register of Industrial Designs has not given a written approval, that is attached in the request for cancellation of registration.
- (3) The decision on the cancellation of Right to Industrial Design shall be notified in writing by the Directorate General to:
 - a. the Right Holder to Industrial Design;
 - b. the licensee, if a license has been granted, in accordance with the General Register of Industrial Designs;
 - c. the party that filed the request for cancellation, by stating that the Right to Industrial Design is no longer valid as of the date of the decision on cancellation.
- (4) The decision on the cancellation of registration as referred to in paragraph (1) shall be recorded in the General Register of Industrial Designs and announced in the Official Gazette of Industrial Designs.

Part Two

Cancellation of Registration on the Basis of a Lawsuit

Article 38

- (1) A lawsuit on the cancellation of registration of an Industrial Design may be filed by any interested party on the grounds as referred to in Article 2 or Article 4 to the Commercial Court.
- (2) The decision of the Commercial Court as referred to in paragraph (1) on the cancellation of registration of Right to Industrial Design shall be delivered to the Directorate General at the latest 14 (fourteen days) after the date of the decision.

Part Three

Procedure of Filing a Lawsuit

Article 39

- (1) A lawsuit on the cancellation of registration of an Industrial Design shall be filed with the Head of the Commercial Court in the jurisdiction where the defendant lives or domiciles.
- (2) Where the defendant domiciles outside the territory of Indonesia, the lawsuit shall be filed with the Head of Commercial Court of Central Jakarta.
- (3) The clerk of the Court shall register the lawsuit on the date it is filed and produce a receipt, which shall be signed by him with the same date with the registration of the lawsuit.
- (4) The clerk of the Court shall deliver the lawsuit to the Head of Commercial Court at the latest 2 (two) days after the registration date.
- (5) Within the period of 3 (three) days at the latest from the registration date, the Commercial Court shall study the lawsuit and determine the date for a hearing.
- (6) The hearing on a lawsuit shall be conducted within the period of 60 (sixty) days at maximum from the date of registration of the lawsuit.
- (7) The confiscation clerk¹ shall make the summons of the parties concerned at the latest 7 (seven) days from the date of registration of the lawsuit.
- (8) A court decision on the lawsuit shall be made at the latest 90 (ninety) days after the registration date of the lawsuit and may be extended at the latest for 30 (thirty) days with the approval of the Head of Supreme Court.
- (9) The court decision as referred to in paragraph (8), which contains a complete legal reasoning as the basis of the decision, shall be stated in a court session which is open to the public and may be implemented in advance, although a legal action is filed upon the decision.
- (10) A copy of the decision of the Commercial Court as referred to in paragraph (9) shall be delivered by the confiscation clerk to the parties concerned at the latest 14 (fourteen) days after the date of issuance of the decision.

Article 40

The only legal action that may be filed against the decision of the Commercial Court as referred to in Article 38 paragraph (2) shall be a *cassation*.²

Article 41

- (1) The request for a *cassation* as referred to in Article 40 shall be made at the latest 14 (fourteen) days after the date of the decision, by registering with the clerk of the Commercial Court that has made a decision of the lawsuit.
- (2) The clerk of the Court shall register the request for a *cassation* on the date it is filed and produce a receipt, which shall be signed by him, with the same date with the registration date.

¹ Bahasa Indonesia = *juris sita*

² Appeal to the Supreme Court (*Mahkamah Agung*)

- (3) The Applicant for a *cassation* shall deliver the brief for the *cassation* to the clerk of the Court within the period of 14 (fourteen) days from the date the request for a *cassation* is filed as referred to in paragraph (1).
- (4) The clerk of the Court shall deliver the request for a *cassation* and the brief for the *cassation* as referred to in paragraph (3) to the defendant of the *cassation* at the latest 2 (two) days after the request is filed.
- (5) The defendant of the *cassation* may submit a counter against the *cassation* to the clerk of the Court at the latest 7 (seven) days after the date the defendant received the brief for *cassation* as referred to in paragraph (4), and the clerk of the Court shall deliver the counter against the *cassation* to the applicant of the *cassation* at the latest 2 (two) days after he received the said counter.
- (6) The clerk of the Court shall deliver the request for *cassation*, the brief for *cassation* and the counter against the *cassation* as well as the relevant documents to the Supreme Court at the latest 7 (seven) days after the termination of the period as referred to in paragraph (5).
- (7) The Supreme Court shall study the request for *cassation* and determine the date for a hearing at the latest 2 (two) days after the request was received.
- (8) The examination hearing on the request for *cassation* shall be conducted at the latest 60 (sixty) days after the Supreme Court received the request.
- (9) A court decision on the *cassation* shall be made at the latest 90 (ninety) days after the Supreme Court received the request.
- (10) The court decision on a *cassation* as referred to in paragraph (9) that contains a complete legal reasoning, as the basis of the decision shall be stated in a court session that is open to the public.
- (11) The clerk of the Supreme Court shall deliver the decision of *cassation* to the clerk of the Court at the latest 3 (three) days after the decision was made.
- (12) The confiscation clerk of the Court shall deliver the decision of *cassation* as referred to in paragraph (11) to the applicant of the *cassation* and the defendant of the *cassation* at the latest 2 (two) days after the decision was received.

Article 42

The Directorate General shall record the decision of the lawsuit for cancellation that has already had permanent legal power in the General Register of Industrial Designs and announce it in the Official Gazette of Industrial Designs.

Part Four

Consequences of Cancellation of Registration

Article 43

The cancellation of registration of Industrial Design shall nullify all legal consequences connected with the Right to Industrial Design and other rights derived from the Industrial Design.

Article 44

- (1) Where the registration of an Industrial Design is cancelled based on the lawsuit as referred to in Article 38, the licensee shall continue to be entitled to implement his license until the expiry date stipulated in the licensing agreement.
- (2) The licensee as referred to in paragraph (1) shall no longer be required to continue to pay royalties which he would otherwise be required to pay to the Right Holder to Industrial Design whose right has been cancelled, but to pay royalties for the remaining of his licensing period to the true Right Holder to Industrial Design.

CHAPTER VII

FEES

Article 45

- (1) A fee, the amount of which shall be regulated by a Government Regulation, shall be paid upon the filing of application, an objection against an Application, a request for excerpt of the General Register of Industrial Designs, a request for priority document of Industrial Design, a request for copies of Certificate of Industrial Design, a request for recording of transfer of right, a request for recording of licensing agreement, and other requests as provided for in this Law.
- (2) Provisions regarding the requirements, time frame and procedure of payment of fees as referred to in paragraph (1) shall be further regulated by Presidential Decree.
- (3) The Directorate General with the approval from the Minister of Finance may manage by itself all fees as referred to in paragraph (1) and paragraph (2) based on the prevailing laws and regulations.

CHAPTER VIII

SETTLEMENT OF DISPUTES

Article 46

- (1) The Right Holder to Industrial Design or the licensee may bring a lawsuit against any person who deliberately and without rights commits acts as referred to in Article 9, in the form of:
 - a. claim for damages; and/or
 - b. the ceasing of all acts as referred to in Article 9.
- (2) The lawsuit as referred to in paragraph (1) shall be filed at the Commercial Court.

Article 47

In addition to the settlement of disputes as referred to in Article 46, the parties concerned may settle their dispute by means of arbitration or an alternative dispute resolution.

Article 48

The procedure of lawsuit as provided for in Article 39 and Article 41 shall apply *mutatis mutandis* to any lawsuit as provided for in Article 24, Article 28, and Article 46.

CHAPTER IX

PROVISIONAL DECISION BY THE COURT

Article 49

Based on sufficient evidence, the party whose right has been infringed may request to the judge at the Commercial Court to issue a provisional decision regarding:

- a. the prevention of entry of products related to the infringement of the Right to Industrial Design;
- b. the keeping of evidence related to the infringement of the Right to Industrial Design.

Article 50

Where the provisional decision of the Court as referred to in Article 49 has been made, the Commercial Court shall immediately notify the parties affected as well as give the right to be heard.

Article 51

Where the Commercial Court has issued a provisional decision, a judge at the Commercial Court who examines the dispute shall decide whether to amend, cancel or reaffirm the decision as referred to in Article

49 within the period of 30 (thirty) days at the latest as of the date of issuance of the relevant provisional decision.

Article 52

Where the provisional decision of the Court is cancelled, the party who might have suffered may file a claim to the party that requested the decision, for damages he incurred due to the decision.

CHAPTER X INVESTIGATION

Article 53

- (1) In addition to investigating officers at the State Police of the Republic of Indonesia, Civil Servants Investigators within the department of which the scope of duties and responsibilities include the guidance in the field of Industrial Designs shall be granted special authority as investigators as referred to in Law no. 8 of 1981 on Criminal Proceedings, to conduct an investigation of criminal offences in the field of Industrial Designs.
- (2) The Civil Servant Investigator as referred to in paragraph (1) shall be authorized to:
 - a. conduct examination on the truth of reports or information relating to criminal offences in the field of Industrial Designs;
 - b. conduct examination on any party suspected of committing criminal offences in the field of Industrial Designs;
 - c. collect information and evidence from any party in connection with incidents of criminal offences in the field of Industrial Designs;
 - d. conduct examination of books, records and other documents relating to criminal offences in the field of Industrial Designs;
 - e. inspect locations on which evidence, books, records, and other documents might be found;
 - f. confiscate materials and goods resulting from infringements which can be used as evidence in the criminal trials in the field of Industrial Designs;
 - g. request expert assistance in the scope of carrying out the duties of investigation of criminal offences in the field of Industrial Designs;
- (3) The Civil Servant Investigators as referred to in paragraph (1) shall inform the investigating officers at the State Police of the Republic of Indonesia about the initiating and the result of an investigation.
- (4) The Civil Servant Investigator as referred to in paragraph (1) shall forward the results of an investigation to the Public Prosecutor through the investigating officers at the State Police of the Republic of Indonesia in view of the provision of Article 107 of Law no. 8 of 1981 on Criminal Proceedings.

CHAPTER XI CRIMINAL PROVISIONS

Article 54

- (1) Any person who deliberately and without rights commits any acts as referred to in Article 9 shall be sentenced to imprisonment of at most 4 (four) years and/or a fine of at most Rp300,000,000.00 (three hundred million rupiahs).
- (2) Any person who deliberately commits any acts as referred to in Article 8, Article 23 or Article 32 shall be sentenced to imprisonment of at most 1 (one) year and/or a fine of at most Rp45,000,000.00 (forty five million rupiahs).
- (3) The criminal action as referred to in paragraph (1) and (2) shall constitute offence that warrants complaint.³

³ Bahasa Indonesia = *delik aduan*

CHAPTER XII
TRANSITIONAL PROVISIONS

Article 55

- (1) A Designer who has announced his Industrial Design within a period of 6 (six) months before the effect of this Law may file an Application based on this Law.
- (2) The Application as referred to in paragraph (1) must be filed within a period of 6 (six) months at the latest as of the date of effect of this Law.

CHAPTER XIII
CLOSING PROVISIONS

Article 56

With the effect of this Law, the provisions of Article 17 of Law no. 5 of 1984 regarding Industry (State Gazette of Republic of Indonesia of 1984 no. 22, Supplementary State Gazette of Republic of Indonesia no. 3274) shall no longer be valid.

Article 57

This Law shall take effect on the date of its enactment.

In order that every person may know of it, the promulgation of this Law is ordered by the placement in the Official State Gazette of the Republic of Indonesia.

Ratified in Jakarta
on December 20, 2000

PRESIDENT OF THE REPUBLIC OF INDONESIA

(signed)

ABDURRAHMAN WAHID

Promulgated in Jakarta
on December 20, 2000

STATE SECRETARY OF THE REPUBLIC OF INDONESIA

(signed)

DJOHAN EFFENDI

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2000 NUMBER 243