Indonesia: A New Regulation on Intellectual Property License Agreement Recordal

The prevailing intellectual property ("IP") laws in Indonesia stipulate that it is mandatory to record an IP license agreement with the Directorate General of IP ("DGIP"). In the absence of recordal, an IP license agreement is deemed to be not binding on any third party. On 24 February 2016, the Ministry of Law and Human Rights ("MoLHR") issued the implementing regulation of this recordal requirement under MoLHR Regulation No. 8 of 2016 on Requirements and Procedures for Recordal of IP License Agreements ("Regulation 8/2016").

Who should file the request?

Under Regulation 8/2016, the licensor, the licensee, or its proxy i.e. a local IP consultant if the applicant is a foreign party or if the IP rights are owned by a foreign party, may apply for the request for the recordal of an IP license agreement (including copyright and neighboring rights, patent, trademark, industrial design, layout design of integrated circuit, and trade secrets).

The request can be submitted manually in writing to the MoLHR or online through the DGIP official website.

The requirements

In general, the requirements for both manual and online applications are the same. A request for recordal must be submitted with the following documents:

i. A copy of the license agreement or proof of the license agreement.

ii. A copy or an official excerpt of the valid patent, trademark, industrial design, layout design of integrated circuit, or proof of ownership of copyright, neighboring rights, and trade secrets.

iii. An original signed and specific Power of Attorney to file a request for the recordal (if such request is to be submitted by a proxy/a local IP consultant).

iv. A standard form statement letter signed by the applicant confirming that the IP rights (i) are still valid, (ii) do not harm national interest, (iii) do not hinder the advancement of technology, and (iv) do not violate laws and regulations, decency and public order.

v. Original receipt of the relevant official fees payment.
Examination process

Once a request is submitted, the DGIP will conduct an administrative examination to confirm whether or not all required documents are properly submitted. The examination process will be completed within 10 days after the date of the filing of the request. For incomplete requests, the DGIP will write and give the applicant 10 days to complete the required documents. If the applicant fails to do so, the DGIP will consider the request to be withdrawn.

Regulation 8/2016 stipulates that the MoLHR will publish the approved recordal request in the DGIP’s official website.

Recordal period

A recordal of an IP license agreement will be valid for five years. The applicant will need to refile the request for recordal of an IP license agreement once the five year recordal period ends. When refiling, the related IP rights must still be properly registered and/or valid.

Transitional provision

Any request for recordal or any notification of an IP license agreement made prior to the issuance date of the Regulation 8/2016 will be processed in accordance with Regulation 8/2016.