

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA NUMBER 100 OF
2021
ABOUT
INTELLECTUAL PROPERTY CONSULTANT
WITH THE GRACE OF GOD ALMIGHTY THE PRESIDENT OF THE REPUBLIC OF
INDONESIA,

Concerning:

- a. that Intellectual Property Consultants have an important role in the intellectual property protection system both nationally and internationally to support national development;
- b. that the provisions in Government Regulation Number 2 of 2005 concerning Intellectual Property Rights Consultants are no longer in accordance with developments and legal needs in society, so they need to be replaced;
- c. that based on the considerations as referred to in letters a and b, as well as to implement the provisions of Article 15 of Law Number 31 of 2000 concerning Industrial Design and Article 13 of Law Number 32 of 2000 concerning Layout Design of Integrated Circuits, it is necessary to stipulate a Government Regulation concerning Intellectual Property Consultant;

In View of :

1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 30 of 2000 concerning Trade Secrets (State Gazette of the Republic of Indonesia of 2000 Number 242, Supplement to the State Gazette of the Republic of Indonesia Number 4044)
3. Law Number 31 of 2000 concerning Industrial Designs (State Gazette of the Republic of Indonesia of 2000 Number 243, Supplement to the State Gazette of the Republic of Indonesia Number 4045);
4. Law Number 32 of 2000 concerning Layout Design of Integrated Circuits (State Gazette of the Republic of Indonesia of 2000 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 4046);

5. Law Number 28 of 2014 concerning Copyright (State Gazette of the Republic of Indonesia of 2014 Number 266, Supplement to the State Gazette of the Republic of Indonesia Number 5599);
6. Law Number 13 of 2016 concerning Patents (State Gazette of the Republic of Indonesia of 2016 Number 176, Supplement to the State Gazette of the Republic of Indonesia Number 5922) as amended by Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573);
7. Law Number 20 of 2016 concerning Marks and Geographical Indications (State Gazette of the Republic of Indonesia of 2016 Number 252, Supplement to the State Gazette of the Republic of Indonesia Number 5953) as amended by Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia Indonesia Year 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573);

DECIDING:

: GOVERNMENT REGULATION ON CONSULTANTS
INTELLECTUAL PROPERTY.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Government Regulation what is meant by:

1. Intellectual Property Consultant is a person who has expertise in intellectual property and is registered as an Intellectual Property Consultant, and specifically provides services in the field of filing and managing intellectual property applications.
2. Supervisory Council for Intellectual Property Consultants, hereinafter referred to as Supervisory Council, is a body established by the Minister to carry out supervision and guidance on Intellectual Property Consultants.

3. Professional Organization is a legal entity association for Intellectual Property Consultants who are free and independent to improve the quality of the Intellectual Property Consultant profession and contribute to the development of the intellectual property protection system.
4. Minister is the minister who carries out government affairs in the field of law.
5. Directorate General is the Directorate General of Intellectual Property under the ministry that carries out government affairs in the field of law.
6. Days are working days.

APPOINTMENT OF INTELLECTUAL PROPERTY CONSULTANTS

Section One

General

Article 2

Intellectual Property Consultants are appointed by the Minister.

Section Two

Terms of Appointment

Article 3

In order to be appointed as an Intellectual Property Consultant, prospective Intellectual Property Consultants must fulfil these requirements:

- a. Indonesian citizen;
- b. fear God Almighty;
- c. physically and mentally healthy;
- d. permanent residence in the territory of the Republic of Indonesia;
- e. the minimum degree is a bachelor's degree;
- f. at least 25 (twenty five) years old;
- g. fluent in English;

- h. does not have the status as an employee of the state civil apparatus, state official, or is not holding other positions which are prohibited by laws and regulations from being held concurrently;
- i. has attended Intellectual Property Consultant training;
- j. have passed the Intellectual Property Consultant exam;
- k. has undergone an internship or worked after graduating from a bachelor's degree for at least 24 (twenty four) consecutive months at an Intellectual Property Consultant office or intellectual property management unit; and
- l. has never been sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a crime punishable by a minimum imprisonment of 5 (five) years or more.

Article 4

- (1) Requirements to have attended the training as referred to in Article 3 letter i and have undergone internship or work as referred to in Article 3 letter k are excluded for retired employees of the Directorate General who will be appointed as Intellectual Property Consultants.
- (2) In addition to having to fulfill the requirements as referred to in Article 3 letters a to h, j, and l, retired employees of the Directorate General who will be appointed as Intellectual Property Consultants must meet the following requirements:
 - a. has worked for 20 (twenty) years at the Directorate General; and
 - b. the period of 1 (one) year has passed since the date of the retirement decision letter.

Article 5

- (1) The Intellectual Property Consultant Examination as referred to in Article 3 letter j shall be administered by the Directorate General.
- (2) To be able to take the Intellectual Property Consultant exam as referred to in paragraph (1), prospective Intellectual Property Consultants other than retired employees of the Directorate General must have attended Intellectual Property Consultant training.

- (3) Provisions regarding the administration of the Intellectual Property Consultant examination shall be regulated by a Ministerial Regulation.

Article 6

- (1) The Intellectual Property Consultant Training as referred to in Article 5 paragraph (2) is organized by the Directorate General in cooperation with other institutions.
- (2) The implementation of Intellectual Property Consultant training is carried out based on the curriculum determined by the Minister.
- (3) Provisions regarding the implementation of Intellectual Property Consultant training shall be regulated by a Ministerial Regulation.

Section Three

Appointment Procedure

Article 7

- (1) Prospective Intellectual Property Consultants are appointed based on the application.
- (2) The application as referred to in paragraph (1) can be made electronically or non-electronically.
- (3) The application as referred to in paragraph (2) is submitted to the Minister by filling out the form and attaching the required documents in the form of:
 - a. photocopy of identity card;
 - b. photocopy of taxpayer identification number;
 - c. original certificate of physical and mental health from a doctor at a government hospital;
 - d. original police record certificate;
 - e. photocopy of a bachelor's degree that has been legalized;
 - f. certificate of proficiency in English in the form of TOEFL or its equivalent with a minimum of 500 (five hundred);
 - g. statement letter on paper with a stamp duty of Rp. 10,000.00 (ten thousand rupiah) that the person concerned is not an employee of the state civil apparatus, a state official, or is not holding other positions which are prohibited by statutory regulations;
 - h. photocopy of Intellectual Property Consultant training certificate;

- i. certificate of passing the Intellectual Property Consultant exam;
- j. certificate of internship or work at an Intellectual Property Consultant office or intellectual property management unit;
- k. 2 (two) recent photographs measuring 4 x 6 cm (four by six centimeters) with a red background; and
- l. proof of payment of non-tax state revenue.

(4) In the event that the application as referred to in paragraph (1) is submitted by a retired employee of the Directorate General, the applicant shall attach the required documents in the form of:

- a. photocopy of identity card;
- b. photocopy of taxpayer identification number;
- c. original certificate of physical and mental health from a doctor at a government hospital;
- d. original police record certificate;
- e. a photocopy of a bachelor's degree that has been legalized;
- f. English proficiency certificate in the form of TOEFL or its equivalent with a minimum score of 500 (five hundred);
- g. a statement letter on paper with a stamp duty of Rp. 10,000.00 (ten thousand rupiah) that the person concerned is not an employee of the state civil apparatus, a state official, or is not holding other positions which are prohibited by statutory regulations;
- h. certificate of passing the Intellectual Property Consultant exam;
- i. 2 (two) recent photographs measuring 4 x 6 cm (four by six centimeters) with a red background;
- j. proof of payment of non-tax state revenue;
- k. certificate of having worked for 20 (twenty) years at the Directorate General; and
- l. retirement decree.

Article 8

(1) The application as referred to in Article 7 shall be examined within a maximum period of 3 (three) Days from the receipt of the application.

- (2) In the event that based on the results of the examination as referred to in paragraph (1) there is a lack of completeness of the required documents for the application, the Minister shall notify the applicant in writing within a maximum period of 5 (five) Days after the examination is conducted.
- (3) The applicant must complete the lack of completeness of the application requirement documents as referred to in paragraph (2) within a maximum period of 5 (five) Days from the date of written notification to fulfill the completeness of the application requirements.
- (4) If within the period as referred to in paragraph (3) the applicant does not complete the application requirement documents, the application is declared inadmissible.
- (5) Against an unacceptable application as referred to in paragraph (4), the applicant may re-apply.

Article 9

In the event that based on the results of the examination as referred to in Article 8, the application is declared complete, the Minister shall make a decision on the appointment of the Intellectual Property Consultant.

Article 10

- (1) Prior to carrying out his profession, an Intellectual Property Consultant must take an oath/promise according to his religion before the Minister or an appointed official.
- (2) The oath/promise as referred to in paragraph (1) reads as follows: “I solemnly swear/promise:
 - that I always uphold and practice Pancasila, the 1945 Constitution of the Republic of Indonesia, and the prevailing laws and regulations in the Republic of Indonesia;
 - that in carrying out my duties as an Intellectual Property Consultant, I always work professionally, either directly or indirectly using any name or pretext, will not promise anything to anyone that is contrary to the provisions of the laws and regulations;
 - that in carrying out my duties as an Intellectual Property Consultant, I always act honestly based on law and justice;
 - that I always maintain my behavior and will carry out my obligations in accordance with my honor, dignity and responsibility as an Intellectual Property Consultant;

- that I always maintain the confidentiality of information related to intellectual property authorized to me by upholding the code of ethics of the Intellectual Property Consultant profession.”

(3) The taking of the oath/promise as referred to in paragraph (1) is carried out within a maximum period of 3 (three) months from the date of the decision on the appointment of the Intellectual Property Consultant.

Article 11

The Intellectual Property Consultant who has been appointed and the oath/promise is taken, shall be named in the list of Intellectual Property Consultants and announced in the Intellectual Property Consultant official news report issued by the Directorate General.

CHAPTER III

RIGHTS AND OBLIGATIONS OF INTELLECTUAL PROPERTY CONSULTANTS

Section One

General

Article 12

- (1) Intellectual Property Consultants provide services in the field of filing and managing intellectual property applications.
- (2) In providing services in the field of filing and managing applications for intellectual property as referred to in paragraph (1), the Intellectual Property Consultant is required to have a power of attorney from the service user he represents.
- (3) Intellectual Property Consultants may provide and provide professional services in consulting in the intellectual property sector.

Section Two

Rights and obligations

Article 13

- (1) The Intellectual Property Consultant is entitled to compensation for services from service users in accordance with the fair value limit.
- (2) In providing services in the field of filing and managing applications for intellectual property and professional services in consulting in the field of intellectual property as referred to in Article 12, the Intellectual Property Consultant is obliged to:
 - a. work professionally, honestly, thoroughly, and responsibly;
 - b. obey and comply with the provisions of laws and regulations and professional code of ethics;
 - c. maintain the confidentiality of information relating to intellectual property authorized to him;
 - d. have an office with a clear office address;
 - e. become a member of a Professional Organization;
 - f. report any changes in conditions related to the requirements to become an Intellectual Property Consultant to the Minister or appointed official;
 - g. create, organize, and maintain good and neat filing and documentation relating to the management of intellectual property authorized to him;
 - h. appoint another Intellectual Property Consultant to act as the protocol holder; and
 - i. provide consulting and socialization services in the field of intellectual property free of charge to service users who cannot afford it.

CHAPTER IV

INTELLECTUAL PROPERTY CONSULTANT ASSEMBLY

Article 14

- (1) The Minister shall supervise and foster Intellectual Property Consultants.
- (2) In carrying out the supervision and guidance as referred to in paragraph (1), the Minister shall establish a Supervisory Council.

Article 15

The Supervisory Board is appointed for a term of office of 3 (three) years and may be reappointed for another 1 (one) term of office.

Article 16

(1) The Supervisory Council as referred to in Article 14 paragraph (2) consists of 9 (nine) people consisting of the following elements:

- a. government as many as 3 (three) people;
- b. Professional Organization as many as 3 (three) people; and
- c. 3 (three) experts/academics.

(2) The Supervisory Council as referred to in paragraph (1) consists of:

- a. 1 (one) chairman concurrently member;
- b. 1 (one) deputy chairman concurrently member; and
- c. 7 (seven) members.

(3) The chairman and deputy chairman of the Supervisory Council must come from different elements and are elected from and by members of the Supervisory Council.

(4) The election of the chairman and deputy chairman of the Supervisory Council shall be conducted by deliberation.

(5) In the event that the election by deliberation does not reach an agreement, the election of the chairman and deputy chairman of the Supervisory Council shall be conducted by voting.

Article 17

The Supervisory Board has the following duties:

- a. conduct supervision and guidance on the behaviour of Intellectual Property Consultants;
- b. conduct an examination of reports regarding alleged violations of obligations and professional code of ethics carried out by Intellectual Property Consultants;
- c. monitor and evaluate the performance of the Intellectual Property Consultant;
- d. make recommendations for the dismissal of the Intellectual Property Consultant; and

- e. make recommendations for extending the Intellectual Property Consultant's retirement age.

Article 18

The Supervisory Board is authorized to:

- a. receive reports regarding alleged violations of obligations and professional code of ethics committed by Intellectual Property Consultants;
- b. summon and examine Intellectual Property Consultants suspected of violating obligations and professional code of ethics; and
- c. submit recommendations for imposing sanctions for Intellectual Property Consultants who violate obligations and professional code of ethics to the Minister.

Article 19

- (1) In carrying out its duties, the Supervisory Council is assisted by the secretariat of the Supervisory Council.
- (2) The Secretariat of the Supervisory Council as referred to in paragraph (1) is led by a secretary who is an ex officio official at the Directorate General.

Article 20

Further provisions regarding the organizational structure, procedures for appointment, replacement, and dismissal, as well as the working procedures of the Supervisory Council shall be regulated by Regulations Minister.

CHAPTER V

TERMINATION OF INTELLECTUAL PROPERTY CONSULTANT

Section One

General

Article 21

The Intellectual Property Consultant is dismissed by the Minister.

Article 22

The dismissal of the Intellectual Property Consultant is carried out by:

- a. temporary suspension;
- b. honorable discharge; and
- c. dishonorable dismissal.

Section Two

Temporary Dismissal

Article 23

(2) The Intellectual Property Consultant is suspended from his position as referred to in Article 22 letter a, because:

- a. be under custody;
- b. commits a violation of the obligations and professional code of ethics at a mild and moderate level;
- c. appointed as a state official; or
- d. is in detention.

(2) The dismissal of the Intellectual Property Consultant as referred to in paragraph (1) shall be determined by the Minister after obtaining a recommendation from the Supervisory Council.

Article 24

(1) The temporary suspension as referred to in Article 23 is carried out until the expiration of the period stipulated in the Ministerial Decree.

(2) After the expiration of the period as referred to in paragraph (1), the Minister shall stipulate the reappointment of the Intellectual Property Consultant.

Section Three

Honourable Dismissal

Article 25

- (1) The Intellectual Property Consultant terminates or is honourably dismissed as referred to in Article 22 letter b, because:
 - a. They are deceased;
 - b. have reached 70 (seventy) years old;
 - c. at own request;
 - d. physically and/or spiritually unable to carry out the duties as an Intellectual Property Consultant continuously for more than 3 (three) years; and/or
 - e. change of citizenship.
- (2) The age limit as referred to in paragraph (1) letter b may be extended annually on the condition that they:
 - a. receive a good assessment, based on the latest evaluation conducted by the Supervisory Board;
 - b. never violate the obligations and professional code of ethics; and
 - c. physically and mentally healthy as evidenced by a doctor's certificate.
- (3) The dismissal of the Intellectual Property Consultant as referred to in paragraph (1) letter a, letter b, letter c, and letter e shall be determined by the Minister.
- (4) The dismissal of the Intellectual Property Consultant as referred to in paragraph (1) letter d shall be determined by the Minister after obtaining a recommendation from the Supervisory Council.

Section Four

Dishonourable Dismissal

Article 26

- (1) The Intellectual Property Consultant is dishonourably dismissed as referred to in Article 22 letter c, because they:
 - a. violate the oath/promise of the Intellectual Property Consultant;
 - b. commit a serious violation of the obligations and professional code of ethics; and/or

- c. are sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a crime punishable by a minimum imprisonment of 5 (five) years or more.
- (2) The dismissal of the Intellectual Property Consultant as referred to in paragraph (1) shall be determined by the Minister after obtaining a recommendation from the Supervisory Council.

Article 27

The Intellectual Property Consultant who is subject to dismissal as referred to in Article 22 letter b and letter c shall have his name removed from the list of Intellectual Property Consultants and announced in the official news report of the Intellectual Property Consultant published by the Directorate General.

Article 28

Further provisions regarding the procedure for dismissing an Intellectual Property Consultant shall be regulated by a Ministerial Regulation.

CHAPTER VI PROFESSIONAL ORGANIZATION

Article 29

- (1) Intellectual Property Consultants must gather in 1 (one) professional organization.
- (2) The forum for the Professional Organization as referred to in paragraph (1) is the Association of Indonesian Intellectual Property Consultants.
- (3) Provisions regarding the objectives, duties, authorities, work procedures, and composition of the Professional Organization are stipulated in the articles of association and by-laws of the Professional Organization.
- (4) Professional Organizations establish and enforce professional codes of ethics.
- (5) Professional Organizations have a list of members and a copy thereof is submitted to the Minister and the Supervisory Council.

- (6) Professional Organizations submit activity reports every 6 (six) months to the Minister and the Supervisory Council.

CHAPTER VII
INTELLECTUAL PROPERTY CONSULTANT MONITORING AND EVALUATION

Article 30

- (1) The Supervisory Board periodically every 3 (three) years to monitor and evaluate the performance of the Intellectual Property Consultant.
- (2) The monitoring and evaluation as referred to in paragraph (1) shall be carried out on:
- a. the obligations of the Intellectual Property Consultant as referred to in Article 13 paragraph (2); and
 - b. providing services in the field of filing and managing applications for intellectual property and consulting services in the field of intellectual property every year.
- (3) The results of the monitoring and evaluation as referred to in paragraph (1) shall be submitted to the Minister.

CHAPTER VIII
TRANSITIONAL TERMS

Article 31

At the time this Government Regulation comes into force:

- a. prospective Intellectual Property Consultant who has followed a series of processes for the appointment of Intellectual Property Consultant before this Government Regulation comes into effect, but is being processed and has not been decided, the appointment is carried out based on the provisions in Government Regulation Number 2 of 2005 concerning Consultant of Intellectual Property Rights; and
- b. Intellectual Property Consultants who have not appointed a protocol holder must appoint a protocol holder within 6 (six) months from the promulgation of this Government Regulation.

Article 32

- (1) The existing Association of Intellectual Property Consultants shall be recognized as the Association of Indonesian Intellectual Property Consultants based on this Government Regulation.
- (2) The Intellectual Property Rights Consultant Association as referred to in paragraph (1) must comply with this Government Regulation no later than 3 (three) months as of the promulgation of this Government Regulation.

CHAPTER IX CLOSING

Article 33

At the time this Government Regulation comes into force:

- a. Government Regulation Number 2 of 2005 concerning Consultants of Intellectual Property Rights (State Gazette of the Republic of Indonesia of 2005 Number 2, Supplement to the State Gazette of the Republic of Indonesia Number 4466); and
- b. Presidential Regulation No. 84/2006 concerning Procedures for Appointment of Intellectual Property Rights Consultants,

is revoked and declared invalid.

Article 34

This Government Regulation comes into force on the date of promulgation.

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

Set in Jakarta
on September 27, 2021

PRESIDENT OF THE REPUBLIC OF INDONESIA,
signed.
JOKO WIDODO

Promulgated in Jakarta
on September 27, 2021

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,
signed.
YASONNA H. LAOLY