

## QUESTIONNAIRE on EXCEPTIONS AND LIMITATIONS TO PATENT RIGHTS

The answers to this questionnaire have been provided on behalf of :

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### The Answer of QUESTIONNAIRE on EXCEPTIONS AND LIMITATIONS TO PATENT RIGHTS

#### Section I: *General*

1. It is about patentable Inventions, under Article 2 on Indonesia Patent Law a patent shall be granted to an Invention, which is novel, involves an inventive step and is susceptible of industrial application. An invention shall be considered to involve an inventive step if said invention does not constitute something that is obvious to a person skilled in the art. An invention shall be considered novel, if at the date of filling of the application said invention is not the same with any previous technological disclosure.

A patent shall not be granted to an invention regarding:

- a. Any process or product of which the announcement and use or implementation contravenes the prevailing rules and regulations, religious morality, public order or ethics;
- b. Any method of examination, treatment, medication, and/or surgery applied to humans and/or animals;
- c. Any theory and method in the field of science and mathematics; or
- d.
  - i. all living creatures, except micro-organism
  - ii. any biological process which is essential in producing plant or animal, except non-biological process or microbiological process.

2. A Patent holder shall have the exclusive right to exploit his Patent and prohibit any other party who without his consent:
  - a. In the case of product-Patent: makes, uses, sells, imports, rents out, delivers, or makes available for sale or rental or delivery of the Patented product;
  - b. In the case of process-Patent: uses the Patented production process to make products and commits other activities as referred to in point a.

In the case of process-Patent; such prohibition against any other party who without his consent commits the importation shall only apply to imported products solely produced from the use of the pertinent process Patent. Exempted from the provisions if the use of said Patent is for the sake of education, research, experiment, or analysis, as long as it does not harm the normal interest of the Patent Holder.

3. The applicable exceptions/limitations are:
  - a. Experimental use and/or non commercial use;
  - b. Prior Use;
  - c. Compulsory licensing and/or government use.

The invention does not include :

- 1) aesthetic creations;
- 2) the scheme;
- 3) rules and methods to perform the following activities :
  - a. involving mental activity,
  - b. game,
  - c. business.
- 4) rules and methods of computer programs
- 5) presentation of an information

### **Section III: *Experimental use and/or scientific research***

11. Indonesia Patent Law Article 16, paragraph (3) "Exempted from the provisions as referred to in paragraph (1) and paragraph (2) if the use of said Patent is for the sake of education, research, experiment, or analysis, as long as it does not harm the normal interest of the Patent holder.
13. This provision is intended to provide an opportunity for those who really need the use of the invention is only for research and education. In addition, the meaning for educational purposes, research, experiment or analysis, covering also the activities for the purpose of bioequivalence testing or other forms of testing.

14. No, it does but our government will actually check and control the organization, including whether or not commercial.

**Section IV: *Preparation of medicines***

23. In our country statutory regarding drugs not specifically because it is a Government use. On this subject contained in Decree Of President Of The Republic Of Indonesia No 83 Of 2004 Regarding The Exploitation Of Patent By The Government On Anti-Retroviral Drugs.
25. The exploitation of Patent by the government is aimed at fulfilling the urgent need of the public in handling the epidemic HIV/AIDs.

**Section V: *Prior Use***

31. Indonesia Patent Law Article 13
33. This provision is intended to provide protection for good faith prior user, but does not apply. In this case, the activities done and the implementation of the invention can still be carried out by him as a prior user to limit the patent protection.
34. In Indonesia Patent Law The scope of "use" are in Paragraph 14.

**Section IX: *Compulsory Licenses and/or government use***

*Compulsory Licenses*

65. About Compulsory License are in Indonesia Patent Law Paragraph 74 and Government use are in Paragraph 99.
67. a. Non working or insufficient working of the patented invention  
b. Refusal to grant licenses on reasonable terms  
c. Anti-competitive practices and/or unfair competition

*Government use*

81. Government use are in Paragraph 99 in Indonesia Patent Law
83. a. Public health  
b. National security  
c. National emergency an/or extreme urgency