Patents in Indonesia and Effect for Economic Development in the Era of Global

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Abstract: Implementation of the legal protection of intellectual property has become a central international attention, particularly in countries forward. Intellectual property has become the economic engine of the world in promoting economic growth and improving the welfare of the people's living standards. Application of the law has been used as a tool of economic development. Seriousness of government in the implementation of the law of intellectual property rights becoming one of the main aspects of the consideration for prospective foreign investors to invest in that country. This is understandable, because the issue of intellectual property rights, especially patents directly related to the technology. Law enforcement in the field of intellectual property rights is still weak in Indonesia, including the province of West Sumatra to be further improved in the future. West Sumatra region should be able to speak at national and even international level in terms of development and advancement of intellectual property rights.

Keywords— Intellectual Property Right, Economic Development, Globalization.

I. PRELIMINARY

Intellectual property rights or intellectual property rights (intellectual property rights) plays a very important role in international trade and economic development of a country. Intellectual property consisting of:

1. Copyright.
2. Patent.
3. Brand (trademark).
4. Variety Protection (plant breeding).
5. Trade Secret.
6. Industrial Design.
7. Integrated Circuit Layout Design; and
8. Prohibition of Monopolistic and Unfair Competition (Antitrust).

Developments in science and technology is very fast and amazing millennium era, all three (3) This is the hard work of man as a servant of Allah who have intellectual in producing a variety of intellectual work. This can be seen in the field of Copyright by the large number of published books, journals, tapes, Compact Disc, VCD, DVD, computer programs (software) and works of art of music and dance in the regions.

In the field of patents, for example, various technological advances in the industry that help humans in performing daily tasks, such as; spacecraft, automotive, medical devices, pharmaceuticals, and others.

Various brands of goods and services telasumen in dropping his choice to have a good product or service, such as; TV brand Sony, Nokia brand mobile phone, and so forth. Those brands have a very close relationship with the quality of goods or services produced. And the brand has a very important role in the promotion of the goods or services.

II. DISCUSSION

A. History of Intellectual Property Rights

1. Ancient Times

The history of intellectual property rights has been going on for a long time. But the international community of recognizes that property rights that are different from property rights to objects (goods) real (Materrielles Eigentum) is not yet old.

The duration of this recognition process due to the factor is not conscious people at that time about the inherent nature of the intellectual property rights, because they do not recognize property rights in any other form, unless the objects or goods.

In ancient and medieval times (Altertum and Mittelalter) copyright is not known by the public, even though many copyrighted works that have been produced by humans at that time. Copyright work is considered as normal that their existence does not need to be protected by legislation (Gesetz), because they think that copyright does not have a strategic significance in human life, such as; house, land or other objects.

Is "Corpus Juris" who noticed the new title that is a creation in the form of writing or painting on paper. But that view is not up to the distinction between real objects (materrielles Eigentum) and intangible objects (immaterielles Eigentum) which is a creation of the human intellect.

The term immaterielles Eigentum this is now referred to as intellectual property rights (**HMI**) or intellectual property rights (**IPR**) which is a translation of the foreign word "geistiges Eigentum", or "intellectual property right".

In medieval times (middle age), the phenomenon of power at will against copyright by the public has increased, because at that time people can at will reproduce the creations of others and memperjual sell it, so that the phenomenon that gave birth to the theory of property right printing (Verlagseigentumslehre).

So, at this time works of human creativity were regarded as an incarnation of God's creation, so its presence in the midst of society regarded as copyright works that no man or "anonymous".

2. The Privileged (Privilege) and Proprietary Printing

What is meant by the term of the rights or PRIVILEG privilege is the right to reproduce a work is given to the printing/publisher. That is, the printing press was privileged to reproduce and sell one's creation. Who is entitled to privilege it is a king or ruler.

PRIVILEG era has begun since the invention of printing books in Gutenberg around 1445 and Kupfertich and wood sculpture (Holzchneidekunst). From this comes the theory of prohibition to reprint a book, unless obtaining PRIVILEG (permission) to do a reprint. The

PRIVILEG Award in principle intended to combat book piracy crimes commonly done by reprinting the book in large quantities and illegally.

PRIVILEG first awarded by the city of Venice (Italy) to Johan von Speyer in 1469 for a period of 5 years. This is the beginning of a theory which suggests that intellectual property rights are limited by time. Surprisingly, PRIVILEG received Johan von Speyer not only one intended as legal protection of the literary works, but the protection of a new process, namely; art of a printed book (Buchdruckkunst).

With the provision of Basler in 1531 then granting PRIVILEG intended for legal protection against copyright works such as books. In principle, the legal protection given to copyrighted works at that time very much different from similar protection known at present.

In the past, given the protection it is a book (printed) within the meaning of objects, whereas the protected today tends not book it in the sense that (concrete), but the contents of the book that is the result of human intellectual work. At this time, the theory of the PRIVILEG growing rapidly in countries of Europe, such as; in German, English and French.

The issue of legal protection of intellectual property rights ~~is~~ was already a global problem, namely, mankind has been a problem throughout the world. International law has started its business since 1983 with the approval of the Paris Convention for the Protection of Property Industrian. Until now, a better business and a real international community sustained in order to protect intellectual property rights.

Since December 10, 1948 with the enactment of the Universal Declaration of Human Rights by the United Nations (United Nations), the intellectual property rights have become part of Human Rights (Human Rights). This is a decisive step that has been taken by the international community, that the issue of protection of the HMI should continue to be considered and improved.

The following section focuses on the legal protection of intellectual property rights in accordance with international law sources to the convention or multilateral agreements.

3. Paris Convention for the Protection of Industrial Property 1883

The paris Convention, which was signed on March 10, 1883 in Paris, France is the oldest rules of international law in the field of human rights. Paris Convention is a multilateral treaty, namely; international agreements signed and followed by many countries. The conventions have several times changed:

1. In Brussels dated December 14, 1900.

2. In Washington on June 2, 1911.

3. Den Haag dated 6 November 1925.

4. In London on June 2, 1934.

5. The Lisbon, dated October 31, 1958.

6. In Stockholm dated July 14, 1967.

7. And converted back dated October 2, 1979.

Indonesia has ratified the Paris Convention is revised Stockholm on September 5, 1997. The legal consequence of ratification Indonesia is bound by any existing legal provisions in the Paris Convention to make the rules in the national law's regulations.

Objects that are protected under the Convention of Paris is mentioned in Article 1 Paragraph (2): "The protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of competition ".

While the definition of property rights in the field of industry (industrial property) described in paragraph (3): "Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce papers, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco, leaf, fruit, cattle, minerals, mineral waters, beer, flowers & flour ".

4. Berne Convention for The Protection of Literary and Artistic Works 1886

Berne Convention signed on 9 September 1886 in the city of Bern, Switzerland is the oldest international law in the field of copyright. This Convention has been amended several times:

1. In Paris on May 4, 1896.

2. In Berlin on 13 November 1908.

3. In Bern dated June 2, 1914.

4. In Rome on June 2, 1928.

5. In Brussels dated June 26, 1948.

6. In Stockholm dated July 14, 1967.

7. In Paris on July 24, 1971.

8. And amended again on 28 September 1979.

Indonesia ratified the Convention, Bern new for the first time on September 5, 1997 with the exception of (reservation) in Article 33 Paragraph 2 of the Berne Convention concerning the jurisdiction of the International Court of Justice in the settlement of disputes. Thus, Indonesia is bound by the terms stipulated in the convention in the Bern Convention and the legal consequences of that, then Indonesia to translate the provisions of national legislation.

Regarding objects protected under the Bern Convention ~~is~~ are immense, as mentioned in Article 2 paragraph (1):

"The expression of literary and artistic works shall include every production in the literary, scientific and artistic domain, whatever maybe the mode or form of its expression, such as books, pamphlets and other writing; lectures, addresses, sermons and other works of the same

nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; Compositions musical with or without words; cinematographic works to the which are assimilated works Expressed by a process analogous to cinematography; works of drawing, painting architecture, sculpture, engraving and lithography; photography; works or applied art; Illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science ".

Although Article 2 paragraph (1) above illustrates that the scope of the object protected by the convention, but the member states are given discretion to formulate the national legislation on intellectual property rights the object in question. This is certainly the view to the historical and cultural background and customs prevailing in a country. As in Indonesia, karawitan art, batik art, and a variety of shapes and forms other applied art is a quirk/privilege in Indonesia that are not found in other countries.

5. UN Universal Declaration of Human Rights (UDHR) 1948

Universal Declaration of Human Rights, which was signed on 10 December 1948 by the UN General Assembly is the first international legal provision that was born after the end of World War 2 (two) in 1945 in the field of Human Rights. Since then, the issue of Human Rights (HAM) into the glare of the developed countries, particularly the United States and Europe. Problems often form the size of the protection of human rights in the developed countries to determine a country is democratic or not, so the size is also used as one of the informal requirements for developed countries to provide economic aid to 3rd world countries (three).

In relation to intellectual property rights, Article 27 Paragraph (2) of the UDHR states: "Everyone has the right to the protection of the moral and material interests from any scientific, literary or artistic production of the which he is the author". Of the provisions of Article 27 Paragraph (2) of the UDHR can be explained, that, the issue of intellectual property rights is a matter of human rights that must be protected by each state in the provision of national legislation of the country.

Article 14 Grundgesetz (Constitution) Germany provides legal protection of property rights and on that basis the German Constitutional Court (Bundesverfassungsgericht) decided that Article 14 Grundsgesetz also provide legal protection of intellectual property. Thus, intellectual property rights are part of human rights.

6. World Intellectual Property Organization (WIPO) 1967

The agreement established the WIPO (World Organization of Intellectual Property Rights) was signed in Stockholm, Sweden, on July 14, 1967, and on 28 September 1979 made the first revision, Indonesia has ratified the WIPO treaty on December 18, 1979. The purpose of the establishment of WIPO is to modernize and perform administrative efficiency in the protection of intellectual property rights while respecting the freedom of each participating country. So, WIPO is tasked to perform administrative activities of all international agreements related thereto.

WIPO is the International Organization Intergovernmental based in Geneva, Switzerland and is one of the main of the 16 UN specialized agencies. WIPO is responsible for promoting the protection of intellectual property throughout the world by conducting research agreement with regard to legal and administrative aspects of intellectual property rights. One of the main important activities of WIPO is the constructive cooperation with the developing countries in terms of intellectual property protection.

Article 2 viii WIPO mention of the scope of intellectual property rights is actually an accumulation of the intellectual property that has been mentioned in international conventions, such as the Paris Convention and the Berne Convention. Intellectual property shall include the rights Relating to:

1. Literary, artistic and scientific works.

2. Performances of performing artists, phonograms, and broadcasts.

3. Inventions in all fields of human endeavor.

4. Scientific discoveries.

5. Industrial designs.

6. Trademarks, service marks, and commercial names and designations.

7. Protection against unfair competition, and other rights ~~from~~ of the resulting intellectual activity in the industrial, scientific, literary or artistic fields.

7. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

1994

Agreement on the aspects relating to intellectual property rights (TRIPS) signed in Marrakech, Morocco on 15 April 1994. TRIPS Agreement is part of the agreement that established the World Trade Organization (World Trade Organization). The background of the establishment of the WTO is due to the failure and ineffectiveness of GATT in carrying out its mission as the body authorized to regulate trade and international fare. In addition, the TRIPS is an international legal product that was born as a result of advances in science and technology (Science and Technology) enters the 21st century. The birth of TRIPS is also a very strong demand from developing countries as countries that control and producer of science and technology.

The new TRIPS into effect on January 1, 1995. For developing countries (Developing Country) TRIPS enacted five years later, as of 1 January 2000. As for the underdeveloped countries (Least-Developed Country) TRIPS came into effect 10 years later, that is, per January 1, 2006.

It must be recognized, that the presence of these many worrisome TRIPS international countries, especially developing countries. Therefore, many of the developing countries, such as;

China, Indonesia, Malaysia, Korea, Bulgaria, and other Asian countries do not provide legal protection to intellectual property rights optimally.

In addition, law enforcement undertaken by these countries is still a far touching sense of justice. That is, the problem of law enforcement, particularly against violations of intellectual property rights, has not been a serious concern of the developing countries.

8. Indonesia

As a former Dutch colony, the history of the law of intellectual property protection in Indonesia cannot be separated with a history similar law in the Netherlands at that time, because almost all the rules that apply in the Netherlands at that time was also imposed in the Dutch East Indies (Indonesia name at that time) with the principle of concordance. Thus, when viewed from the colonial period to the present day, the age of the intellectual property rights may be said to have been a long time.

But when viewed in the fact that to date, the provisions of the intellectual property rights are still far from that expected by international standards, in terms of the formulation of the law has much less in terms of the implementation of the law itself on the ground in dealing with cases regarding the violation of intellectual property rights.

a. Copyright

UUHC the first to apply in Indonesia is UUHC September 23, 1912 (Auteurswet 1912) coming from the Netherlands. UUHC 1912 is still being enforced, although for the first time Indonesia tries to realize a national laws on copyright. Efforts to realize national UUHC piloted with resultant bill on Copyright for the first time discussed on January 9, 1965.

Further studies on this bill on 20 until October 22, 1975 held a seminar on copyright in order to get feedback from the community about the fate of the bill. After undergoing a fairly long time on 12 April 1982 Copyright bill approved by the House of Representatives to set into Law No. 6 of 1982 on Copyright and effective that day as well. With the enactment of Law No. 6 In 1982, the UUHC 1912 are no longer valid.

5 years later, this UUHC amended by Law No. 7 of 1987 and 10 years later was changed again by Law No. 12, 1997. Amendments to the Law on Copyright, Patent and Trademark Office in 1997 was indeed a first package of legal reforms in the field of HMI.

As the authors predict that after the revision UUHC Indonesia, which held in 1997 that in the not too long revision must be held back, because it does not conform with the standards of protection under international law, in particular the TRIPS Agreement. Then on July 29, 2002 the Government of Indonesia enacted a new UUHC with the Copyright Act No. UUHC 19, 2002. It replaces the old UUHC.

b. Patent

When seen legislation concerning HMI colonial times, it can be said that the law on patents is the oldest legal provisions. In the "Reglement op het verlenen van uitsluitende regten

op uitvindingen, invoeringen en verbeteringen van voorwerpen van kunst en volksvlijk 1817" (Conditions of entitlement exclusively to the discovery, introduction and improvement on the field of folk art), and then in 1844 imposed in the Dutch East Indies.

In 1870 this law no longer apply or revoked. These laws are not immediately replaced with a new one, because the new 1911 Law on Patents applied the year before (1910) had imposed the year before (1910) has been in force in the Netherlands, Act 1911 was later amended several times and refinement. Repairs and improvements were made in 1916, 1921, 1922, 1931, 1936, 1937 and last in 1949.

After Indonesia's independence, the existence of the Law on Patents have received attention in Indonesia Jurist, because sovereignty principles adopted by this Act are deemed no longer compatible with the spirit of independence. The reason is, that the authority testing patent is in the Netherlands, while Jakarta or Indonesia is only considered as a branch office of the patent office in the center of the Netherlands. This is clearly contrary to the sovereignty of Indonesia as an independent state recognized by the international community.

In 1953 the Minister of Justice of the Republic of Indonesia issued a proclamation which is the first national legislation governing patents, namely; The announcement of the Minister of Justice No. JS. 5/41/4, which regulates the filing provisional patent application in the country, and the announcement of the Minister of Justice No. J. G. 01.02.17, regulating the filing of a patent application abroad.

A unity of invention in question is some of the inventions that have relevance between the invention with another invention, for example, an invention is a new form of writing instruments along with the new ink. Stationery and ink are a unity, because the inks specifically for use on stationery.

Based on the above, then on August 28, 1953, Minister of Justice of the Republic of Indonesia issued Announcement on Registration As for Patents. This provision is temporary in the field of patent law to fill the legal vacuum as well as evidence that Indonesia as a sovereign state can't be dictated by foreign powers including the patent. Polemics with the law of this patent can only be resolved after the government enacted Law No. 6 of 1989 on Patents.

With the enactment of Law No. 6 of 1989, then the question arises: whether the announcement of the Minister of Justice of the Republic of Indonesia dated August 28, 1953 remain valid? For the answer, let's look at Article 131 of Law No. 6 1989 on transitional provisions. In Article 131 Paragraph (1) states that within 1 (one) year from the date of entry into force of Law No. 6 In 1989, those who had applied for registration of a patent application by the Government announcement of 1953 in the 10 years before the date of entry into force of Law No. 6 Year 1989, may file a patent application based on the provisions of law.

Furthermore, Paragraph (2) explains further, that if the patent application which has been registered and comply with the provisions referred to in Subsection (1) does not refill within one (1) year after the date of enactment of this Act, the patent application shall be deemed expired. Paragraph (3) continues to mention, that the registration of a patent application based on the announcement by the Government as referred to in paragraph (1) submitted more than 10 (ten)

years before the start date of enactment of this Act, disqualified, the Law on Patents of this in 1997 was revised to UU no. 13 of 1997.

In 2001 the Government of Indonesia, replacing the old Patent Act with the new Patent Law, namely; UU no. 14 of 2001 which became effective on August 1, 2001.

c. Brand

The legal provisions on the protection of the mark for the first time included in the Code of Penal (Penal Code) or in Dutch called the Wetboek van Strafrecht (WvS) Dutch East Indies in 1848. Article 89 WvS determined that improper use of seals, stamps and brands Bank or trade on institutions that are protected by law. While legislation on the brand new set for the Dutch East Indies in 1885.

8 years later, in 1893 after the Madrid Agreement concerning the International Registration of Marks is approved, a new Trademark Act for the Dutch East Indies enacted to replace the previous Trademark Law, Trademark Law comes into force on January 1, 1894.

In 1905 the Trademark Act is amended by Stb. No. 427 Year 1905. Furthermore, the Trademark Act, 1905 was replaced with a new Trademark Law in 1912 (Reglement Industrieele Eigendom 1912) which came into force on March 1, 1913.

16 years after Indonesia's independence in 1961 then we have national legislation on Corporate Brand and Brand of Commerce, namely; UU no. 21, 1961.

Various weaknesses by Law No. 21 This led the Government of Indonesia to replace it with a brand new Law on the Law No. 19 of 1992. With the enactment of Law No. 19 This, then Act No. 21 of 1961 declared void (Article 89 of Law No. 19 of 1992). UU no. 19 of 1992 effectively apply this new 4 this year suffered the same fate with the Law on Patents, due in 1997 Law No. 19 of 1992 revised by Law No. 14 of 1997.

On August 1, 2001 the Government of Indonesia enacted Law No. 15 of 2001 on Marks. So with the enactment of the 2001 Trademark Law, Trademark Law long no longer apply. Replacement is the Trademark Law in order to harmonize the Indonesian national law with international law, in particular the TRIPS Agreement 1994.

d. Plant Variety Protection

Law on Plant Variety Protection (PVP) is validated in conjunction with three other laws, namely; UU no. 30 of the Trade Secret Law 31 on Industrial Design and Law No. 32 Year 2000 on Layout Designs of Integrated Circuits. All 4 of the Acts forced to be completed and ratified before the end of 2000.

PVP is a special protection by the state, which in this case represented by the Government and implemented by the office of the PVP, the crop varieties produced by plant breeders through plant breeding.

PVP rights are special rights granted by the state to the starter and / or PVP rights holder to use their own varieties of results exaltation or give consent to the person or legal entity to use it for a certain time. Varieties of plants that can be protected by PVP include; varieties of plant species that are new, unique, uniform, stable, and given a name. The PVT term of protection is 20 years for annual crops and 25 years for perennial crops.

e. Trade secrets

Law No. 30 of 2000 on Trade Secrets is the law of the trade secrets that were first enacted in Indonesia. This law bears also because Indonesia has ratified the TRIPS Agreement 1994.

Trade Secret is information not known by the public in the field of technology and /or business, has economic value because it is useful in business activities, and kept secret by the owner of a trade secret.

The scope of trade secret protection includes; production methods, processing methods, sales methods or other information in the field of technology or business that has economic value and is not known by the public. This trade secrets continue to be protected as long as it still kept secret and unknown to the public.

f. Industrial design

UU no. 31 of 2000 on Industrial Designs include both industrial property. Law on Industrial Design is also the first provisions of national law which is owned by Indonesia that provides legal protection to industrial designs.

Industrial design is a creation of shape, configuration or composition of lines or colors, or lines and colors, or a combination thereof in the form of three-dimensional or two-dimensional, which gives the aesthetic impression and can be realized in a pattern of three-dimensional or two-dimensional and can be used to produce a product, goods, industrial commodity or handicraft.

The glance regime industrial design is similar to copyright regime, but, in fact different. The law gives protection to the contents of a creature, while industrial design protection is given, it is a form of external or aesthetic value date an industrial design and there was no relationship with the contents. Industrial design protection law for a period of 10 years.

g. Integrated Circuit Layout Design

UU no. 32 Year 2000 on Layout Designs of Integrated Circuits (DTLST) is a law enacted last of four laws on intellectual property in the field of end 2000. The authorization, may seem in a hurry, because of omissions by Indonesia after Indonesia ratified the TRIPS Agreement 1994.

Integrated Circuit is a product in the form of finished or semi-finished, in which there are a variety of elements and at least one of these elements are active elements, which are partly or entirely interconnected and integrally formed in a semiconductor material that is intended to produce electronic functions.

B. Theory of Intellectual Property Law

The emergence of the term intellectual property rights (HMI) or a known foreign language "geistiges Eigentum" (Germany), or intellectual property right (UK) or intelectuele propriete (France) is very influenced by the ideas of John Locke about property rights. In his book, Locke said that the property rights of a human being against the object that produces it has existed since man was born. So the object here is not only in terms of tangible objects, but also abstract objects, called by proper authority to possess the intangibles that are the result of human intellect.

In connection with the emergence of a new school of intellectual property rights I. Kant in his book "Von der Unrechtmafbigkeit des Buchernarchdrucks" in 1785 stressed that the creator (Author) has rights that can not be seen on his work, which Kant rights is called the "ius personalissimus", that is; born right in and of itself (personality rights). Meanwhile, other philosophers, such as Flichte expressed, that an author has the right to a work of the intellect.

Fichte then distinguishes between a book that is the result of the work in printed form with the contents of the book itself (writing). With this distinction the existence of the doctrine "geistiges Eigentum" in Germany more firmly in the legal community. Hegel also distinguishes between objects in two forms: a real object (Sacherigentum) and the production of human inelektualitas (geistige Produktion).

A German Jurists called Klostermann, in 1869 for the first time used the term intellectual property rights (geistiges Eigentum) in a work entitled "Das Eigentum geistige an Schriftwerken, Kunstwerken and Erfindungen internationalem Recht und nach preuflischem", Vol 1. Klostermann's work is finally providing a very meaningful contribution to the birth of legislation in the field of copyright and industrial design in norddeutschen Bundes and the German Reich (Deutsches Reich).

In 1878 Klostermann work is undergoing repairs and improvements and then rises with a new title: "Das Urheberrecht in Schriftwerken, Abbildungen, musikalischen Kompositionen dramatischen und Werken". Klostermann other works are: "Das Urherberrecht an Kunstwerken und Schrift, Abbildungen, Kompositionen, Photographien, Mustern und Modellen", also "Die Patentgesetzgebung aller Lander nebst uber den Gesetzen Musterschutz und Markenschitz".

A year later in 1877 appeared again works in the field of patents: "Das Patentgesetz fur das Deutsche Reigh". Based on the work of this Klostermann, the definition of the term "intellectual property" (geistis Eigentum) covers not only copyright, but also patents, utility models, trademark, industrial design and integrated circuit layout.

1. Theory on the Right of Personality (Moral Right or Persönlichkeit Recht)

On intellectual property rights contained, in fact, two sides: the right personality and the right that is material (economic). 2 side view of all this also spawned two theories are quite famous in the development of intellectual property rights until such time as today.

The first view says that the intellectual property that are the 2nd aspect of it which is a unity. However, among all the second aspect, the aspect of personality is dominant, where the establishment of a close relationship between the creator with his creation. This theory is known as a Monistism Theory (theory of Monistism) pioneered by Bluntschi and later developed by Gierke.

This theory, as proposed by Gierke, further explained that a copyright work is the product/products of the human intellect, giving rise to a very close relationship between the copyright work of its creator (author). So, this theory puts personality traits of its creator as a matter of "the primary" and put its economic nature as "secondary".

In other words, it can be said, that the interests of the creator's personality more highlighted than economic interests. Thus, if only the creator is dead, but his heirs still have the right to defend the interests of the creator. The interests of the creator of the immortal and eternal (forever), while the economic interest of the creator of the limited time, such as for copyright is limited to 50 years after authors died (post mortem auctoris p.m.a).

2. The right to object Intangible (Immaterial Utrecht)

The view of the 2nd known Daulistism theory (theory Dualism) said that between the personality and economical it is two separate things from one another. Copyright is a right contained therein merely economic value. This theory was pioneered by renowned legal experts from Germany, Josef Kohler with the famous theory "Immaterialguiterrecht," Kohler explained that the existence of a very special relationship between people (author) with intangibles (immateriales Gut). Thus, according to Kohler, economic aspects of intellectual property rights more prominent aspects of her personality.

From all the above theory spawned two theories to-3 which in principle is a refinement of the first view, so this theory is called with the modern monistism theory (the theory of modern monistism). According to this theory, between personality and economic aspects of intellectual property rights it is one unified whole. 2nya all equally protected by law from positive law, both by international law and by the laws of national states. This theory was pioneered by German Jurists in the 20th century, such as, Ulmer, Schricker, and others.

In Urhebergesetz 1965 (UUHC Germany) Article 11 clearly embraced this latter theory. Likewise with the Copyright Act No. 6 of 1982 also scoop understand that this 3rd.

In the era of globalization, many experts and legal experts are talking about the business of international trade and its relation to intellectual property rights. It can be said, that more than 90% of the commodity traded world today is a product of human intellectual work is divided into goods and services.

Another theory that explains the relationship of economic value and intellectual property, among others; reward theory, recovery theory and incentive theory. According the reward theory, a person who has produced intellectual works very deserved reward (reward) for any sacrifice, good timing, mind and matter are not fairly valued. While the recovery according to theory, authors entitled to get back on what he has dedicated to produce the intellectual work. According to incentive theory, the importance of incentives intended to provide excitement and motivation for individuals to generate intellectual works.

D. Patent as Machine Mint in era of globalization

1. The term Patents

The term of a patent is a translation from a foreign language (English) "patent". Terminology or the term of patents has become a standard in the Indonesian word which no other equivalent word. The word patent is often used to denote a technological society. And in the context of this patent, before a research result that filed its patent rights, then known by the term "invention", which in Indonesian by Law No. 14 of 2001 on Patents used the term "invention". The term of the present invention is a direct translation of the English "invention".

Speaking of the patent means to speak about technology and industry, because, between the patent and technology have a causal relationship. The birth of new technologies can be ensured for their new patent anyway, and thus came into the industry. Therefore, the number of patents owned by a nation already a measure of technological and economic progress of a nation. Yan advanced nation is certain to have a patent that many, otherwise the nation that is developing and underdeveloped have patents are few in number.

2. Differences between Patents and Patent Simple

A patent is an exclusive right granted by the State to an Inventor for his invention in the field of technology, which for a certain time, implement their own invention or give consent to others to implement them.

The provisions of the Patent Act in Indonesia do not make a difference in detail between the patent with the patent simple. The difference can be seen in terms of the period as referred to in Article 8, paragraph (1) and Article 9 of the Patent Act. The term of protection for patents for 20 (twenty) years and 10 years for a simple patent (utility model).

The difference between patents and utility models is a common thing done by the countries considering the difficulty level of technology contained in patents and utility models are different.

The era of globalization is an era characterized by the level of competition is so high and tight in various fields, especially in the field of trade in goods and services. Only countries that are able to win a competition can enjoy the billions of dollars for the state and nation. The competition is very visible and can be felt in the field of technology in various sectors of modern human life, such as: automotive technology, mobile phones, various household appliances such as; washing machine, dispenser. Here we can see once how Japan was able to produce cars and high-tech machines are much-loved by the people in Asian countries. Meanwhile, European countries, such as; Germany, France, Italy and the United States also has the advantage of technology products and other services.

On the continent of Asia, the newly industrialized countries, such as; South Korea and China are the new competitors in the world of European and American technology. Technology products made in South Korea and China have also flooded the market in international countries, including in Indonesia.

The rise of economic wheels countries South Korea and China are, to be sure also American countries, Japan, Germany, France, and the developed countries, include the tangible evidence of the efficacy of world's economic engine sourced from intellectual property rights, especially patent.

E. Law of Patents in Indonesia Must functioned as a Tool of Economic Development

Law No. 14 of 2001 on Patents has not functioned as a tool of economic development. The existence of the Patent Act is merely a normative sense and in order to meet the obligations of the TRIPS Agreement ratification by the Government of Indonesia with Law No. 7 of 1994.

The progress achieved by industrialized countries is a result of the application of legal norms are supported by human resources who have the creativity and high net state apparatus of corruption. A large number of research activities (research) undertaken by developed countries are opening the way for the achievement of new inventions for the acquisition of patent rights.

The wealth of a country's natural resources will not be able to improve the welfare of the nation and its people even after the exploitation of natural resources to the maximum. State the contrary, as a result of the exploitation of natural resources to the maximum that it has brought misery because forests are reduced in number and easily flooded if it rains. In addition, the amount of poverty, such as; which occurred in Indonesia and in particular of ranah Minang, West Sumatra province also has not been able to overcome.

At the level of the Central Government has taken several steps forward in terms of normative for the proper functioning of the Patent Act, which strengthened by Law No. 18 of 2002 on the National System of Research, Development and Application of Science and Technology, known as the Law on Science and Technology (Science and Technology). Law on Science and Technology even this is further supported by the Government Regulation (PP) No. 20 of 2005 concerning Intellectual Property and Technology Transfer Research and Development Activity Results by Universities and Research and Development Institute.

With the fate of all the law, let alone be operationalized optimally even the presence of the law is still a lot not understood by the Government and the public areas. Even the mandate given by Article 20 paragraph (4) of Law No. 18 of 2002 so that areas in Indonesia form a

Regional Research Council and optimall~~y~~ functioning of the Research and Development (Research and Development) to produce the invention as a path to the acquisition of a patent has not been fully complied with.

In fact, the weakness will be an understanding of the various laws and regulations in the economic field, such as; intellectual property rights (intellectual property rights) are barriers that are not easy to overcome if only the government is not serious to implement.

F. West Sumatra (Sumbar) Need Balitbang and Regional Research Council

Reliable Forward

Until now the existence of the Research and Development (Research and Development) in West Sumatra has not functioned as the agent of change. Research and Development should be underlined supposed to strategize research leading to the development goals of economic, social, cultural and legal fore more advanced. Balitbang should serve as an engine of regional progress and the nation through research activities.

Institutional science and technology be made up of universities, R & D institutions, enterprises and supporting institutions should be given the task and responsibility to advance the technology development area. Local Government obviously will not be able to walk alone to achieve these goals without the support of universities and enterprises as well as other supporting institutions.

At the level of the central government has no National Research Council, it is appropriate that the Regional Government of West Sumatra Province to establish a Regional Research Council as mandated by Article 20 Paragraph (4) on science and technology: "To support the formulation of policy priorities and the various aspects of research, development, and application of science and technology, local governments establish Regional Research Council is composed of citizens of the institutional elements of science and technology in its region".

Until now, the West Sumatra province has yet again and form a Regional Research Council (DRD) that can be used to help the Government to promote science and technology in West Sumatra which we love.

For the purpose of this science and technology development, the local government should provide financial support through the budget to universities, R & D institutions, community organizations and inventor. This is one of the main strategic steps that must be taken by the local government of West Sumatra, West Sumatra fore in order to be able to grow into an industrial area to provide acceleration in achieving the 2020 vision of West Sumatra.

Research budget is allocated in the budget for the West Sumatra is not yet oriented to research to produce an invention. On the basis of this invention inventor can then apply for patent rights to the office of the Directorate General of Intellectual Property rights Ministry of Justice and Human Rights in Jakarta.

If we compare our country's most beloved with other countries in the world in the field of patents, it is natural Indonesia underestimated. Similarly, with a view of the people of West Sumatra province, minang this sphere in the field of patents if dikomperasikan with other provinces in Indonesia, West Sumatra can not speak about the patent, because the acquisition of the patent is still zero.

G. Law Enforcement Still Weak

The problems of law enforcement in Indonesia almost never finished talking about. Even with a very weak law enforcement in Indonesia has led the State Indonesia entered into a series of the most corrupt countries.

Law enforcement in the field of intellectual property rights in Indonesia is still very weak. In fact, through the rule of law can be used as a tool of economic development to improve the welfare of the community.

We take the example in the field of copyright, in particular computer piracy, one year after the introduction and implementation of the Copyright Act No. 19 of 2002, the rate of software piracy (computer software) or a computer program in Indonesia can be reduced. The high level of software piracy continues to inhibit the development of Indonesia's economy. According to a study released by the International Data Corporation (IDC) in 2003, it is estimated that the decline in piracy by 10 points between 2002 and 2006 could add USD 1.9 billion for the Indonesian economy and create more than 4,000 high-tech jobs, in addition to additional tax revenues of USD 100 million over four years for the government.

Similarly, in the field of trademark, trademark rights abuses, especially the well-known brands have exacerbated the image of Indonesia in the eyes of the world. Conditions such as these should not be allowed to continue, but should be taken serious steps and decisively to reduce and stop it.

Weak law enforcement is highly influential on foreign investors to invest in Indonesia. Even for very volatility in the level of legal certainty ground water coupled with a multi-dimensional crisis has not ended yet also raises due to the escape of foreign investors in Indonesia and are looking for a new destination country is more promising in terms of enforcement and legal certainty, such as; Vietnam, China and Malaysia.

III. ENCLOSE

A. Conclusion

Implementation of the legal protection of intellectual property has become central to international attention, particularly in countries forward. Intellectual property has become the economic engine of the world in improving the country's economic growth and improve the welfare of the people's living standards. Application of the law has been used as a tool of economic development.

The seriousness of the government in the implementation of the law on intellectual property rights becoming one of the main aspects of consideration for prospective foreign investors to invest in that country. This is understandable, because the issue of intellectual property rights, especially patents directly related to the technology.

B. Recommendations

Law enforcement in the field of intellectual property rights is still weak in Indonesia, including the province of West Sumatra to be further improved in the future. West Sumatra region should be able to speak on a national and even international level in terms of development and advancement of intellectual property rights.

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