

ABSTRACT

PATENT PROTECTION PURSUANT TO INDONESIAN PATENT LAW

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The title of this dissertation is “ Patent Protection Pursuant to Indonesian Patent Law”. The central theme of this dissertation would be defining the scope of Patent protection and creating legal certainty. In this dissertation, it is presented that claim should be interpreted in such a way that it not impede technological development on the one hand, and protect the essence of invention on the other hand.

Technological and economic interests are relevant to the scope of Patent protection. Patent is construed to protect the invention exclusively, by which the inventor monopolies the right granted by the state to utilize or exploit it. This kind of monopoly is justified legally.

The first Indonesian Patent Act is Law no. 6 of 1989. By virtue of ratifying Marrakesh Agreement, Indonesia amended its Patent Act with Law no.13 of 1997. Then, in 2001, the Law is replaced by Law no. 14 of 2001. In those Patent Act however, there is no provision defines clearly the scope of Patent protection.

The purposes of this research are to find: (1) the essence of Patent protection, (2) the limits of Patent protection; and (3) the phylosophical basis concerning Patent disputes. The type of this research is legal research that employs statute, historisch, case, and comparative approaches.

From this research, it is found that, (1) the essence of Patent protection is determined by the meaning of claim, instead of the claim wordings only; (2) the scope of Patent protection is limited by technological and economic interests as delivered by judge holding; and (3) principle of good faith serves to be a phylosophical basis concerning Patent disputes.

Key words: Patent protection, monopoly Patent right, claim, technological interest, economic interest.