

TRIP'S Agreement in Legal Protection of Intellectual Property Rights in Indonesia

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Article	Abstract
<p>How to cite: Bayu Abdillah, 'TRIP'S Agreement in Legal Protection of Intellectual Property Rights in Indonesia' (2024) Vol. 5 No. 2 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p>DOI: 10.35719/rch.v5i2.306</p> <p>Article History: Submitted: 20/06/2024 Reviewed: 28/06/2024 Revised: 08/07/2024 Accepted: 20/07/2024</p> <p>ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)</p>	<p>Before Indonesia ratified the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the national legal system had recognized regulations regarding Intellectual Property Rights (IPR) inherited from the Dutch East Indies colonial era. During that period, the applicable regulations still referred to the Dutch legal system enforced in the colonial territories, including Indonesia. The scope of IPR protection at that time was limited to three main aspects, namely copyright, trademarks and industry, and patents. However, the ratification of the TRIPS Agreement by Indonesia was an important milestone in the transformation of national IPR law. Since then, there has been a significant expansion in the scope, definition, and protection system for various forms of intellectual property. This regulatory update reflects Indonesia's commitment to aligning its legal system with international standards, while strengthening its position in the global trade order. This study aims to analyze the influence of the TRIPS Agreement on the development of IPR legislation in Indonesia, and to assess the extent to which its implementation provides certainty and legal protection for rights owners. Through a normative approach with historical analysis and comparative law, this study emphasizes the importance of harmonizing national law with international instruments in order to support a fair and sustainable investment and trade climate.</p> <p>Keywords: <i>TRIP'S Agreement, Legal Protection, Intellectual Property Rights.</i></p> <p>Abstrak</p> <p>Sebelum Indonesia meratifikasi <i>Agreement on Trade-Related Aspects of Intellectual Property Rights</i> (TRIPS Agreement), sistem hukum nasional telah mengenal pengaturan mengenai Hak Kekayaan Intelektual (HKI) yang diwarisi dari masa kolonial Hindia Belanda. Pada periode tersebut, regulasi yang berlaku masih merujuk pada sistem hukum Belanda yang diberlakukan di wilayah jajahan, termasuk Indonesia. Cakupan perlindungan HKI pada masa itu terbatas pada tiga aspek utama, yaitu hak cipta, merek dagang dan industri, serta paten. Namun, ratifikasi TRIPS Agreement oleh Indonesia menjadi tonggak penting dalam transformasi hukum HKI nasional. Sejak saat itu, terjadi perluasan signifikan dalam cakupan, definisi, serta sistem perlindungan terhadap berbagai bentuk kekayaan intelektual. Pembaruan regulasi ini mencerminkan komitmen Indonesia untuk menyesuaikan sistem hukumnya dengan standar internasional, sekaligus memperkuat posisinya dalam tatanan perdagangan global. Penelitian ini bertujuan untuk menganalisis pengaruh TRIPS Agreement terhadap perkembangan perundang-undangan HKI di Indonesia, serta menilai sejauh mana implementasinya memberikan jaminan kepastian dan perlindungan hukum bagi pemilik hak. Melalui pendekatan normatif dengan analisis historis dan perbandingan hukum, penelitian ini menekankan pentingnya harmonisasi hukum nasional dengan instrumen internasional demi mendukung iklim investasi dan perdagangan yang adil dan berkelanjutan.</p> <p>Kata Kunci: <i>TRIP'S Agreement, Perlindungan Hukum, Hak Kekayaan Intelektual.</i></p>

Introduction

Intellectual Property Rights are not new in Indonesia. Since the Dutch East Indies era, Indonesia has had laws governing Intellectual Property Rights. The law was actually the implementation of the laws of the Dutch East Indies government that were in force in the Netherlands, which were then implemented in Indonesia as a Dutch colony based on the principle of concordance. At that time, the field of Intellectual Property Rights in Indonesia was recognized in three areas, namely Copyright, Trademarks, and Industry and Patents. The following are the Dutch laws and regulations governing Intellectual Property Rights:¹

1. Auterswet 1912 (Authors' Rights Act of 1912, Copyright Act; S.1912-600)
2. Reglement Industriële Eigendom Kolonien 1912 (Colonial Industrial Property Rights Regulations 1912; S.1912-545 jo S.1913-214)
3. Octrooiwet 1910 (Patent Act 1910; S.1910-33, yis S.1911-33, S.1922-54)

The first Copyright Act in the Netherlands was enacted in 1803. It was later revised in 1817 and followed the Berne Convention of 1886 to become the Auterswet of 1912. As a Dutch colony, Indonesia (the Dutch East Indies at that time) was also bound by the Berne Convention, as announced in S.1914-797. The Colonial Industrial Property Rights Regulation of 1912 is the oldest trademark law in Indonesia. This law was enacted by the Dutch government and has been in effect since March 1, 1913 in its colonial territories, including Indonesia, Suriname, and Curacao. The Patent Law of 1910 came into effect on July 1, 1912. Legal reform in the field of Intellectual Property Rights (IPR) in Indonesia was carried out due to the international obligations carried out by Indonesia related to the Convention Establishing the WTO (World Trade Organization). The convention requires all its members to adjust their national laws and regulations to the provisions set out in the convention, especially Annex 1b of the TRIPS Convention (Agreement on Trade Related Aspects of Intellectual Property Rights). The convention provides a time limit for its member countries to adjust their national laws in the field of IPR in accordance with the provisions of TRIPS, namely 1 year for developed countries and 4 years for developing countries.²

As a developing country, Indonesia is required to adjust its national laws in the field of Intellectual Property Rights (IPR) no later than January 2000. In response to this policy, Indonesia issued several laws that protect IPR. The laws issued include:

1. Law No. 29 of 2000 on Protection of Plant Varieties
2. Law No. 30 of 2000 on Trade Secrets
3. Law No. 31 of 2000 on Industrial Design
4. Law No. 32 of 2000 on Integrated Circuit Layout Design
5. Law No. 14 of 2001 on Patents
6. Law No. 15 of 2001 on Trademarks
7. Law No. 19 of 2002 on Copyright

In addition, the government also issued Government Regulations related to the protection of Intellectual Property Rights, such as PP No. 1 of 2005 on the Implementation of

¹ Karlina Sofyarto, 'Perlindungan Hukum Hak Kekayaan Intelektual Atas Pengetahuan Tradisional Terhadap Perolehan Manfaat Ekonomi', *Kanun Jurnal Ilmu Hukum*, 20.1 (2018), 149–62

² Kholis Roisah and others, 'Perlindungan Ekspresi Budaya Tradisional Dalam Sistem Hukum Kekayaan Intelektual', *Masalah-Masalah Hukum*, 43.3 (2014), 372-379–379

Law No. 31 of 2000 and PP No. 51 of 2007 on Geographical Indications. All of these steps are aimed at strengthening the protection of IPR in Indonesia.³

New legal regulations on intellectual property are legal political policies implemented to protect Intellectual Property Rights (IPR) in Indonesia, by ratifying TRIPS (Trade-Related Aspects of Intellectual Property Rights). Currently, Indonesia has new legal regulations governing IPR protection, which are revisions of several previous regulations. Some of the revised legal regulations include:

1. Law Number 28 of 2014 on Copyright and Related Rights
2. Law Number 20 of 2016 on Trademarks and Geographical Indications
3. Law Number 13 of 2016 on Patents

With this revision, it is hoped that protection of IPR in Indonesia will be more effective and in accordance with international standards regulated in TRIPS.⁴

Changes in legal policy regarding the protection of Intellectual Property Rights (IPR) followed by the ratification of TRIPS in Indonesia affect legal policy regarding IPR protection as a whole. This policy change is a statement of the state's will regarding the laws applicable in its territory and the direction of legal development that it wants to build. In this case, state agencies are responsible for establishing special regulations relating to IPR protection in Indonesia. This policy change justifies that IPR is a right inherent in someone who has made an effort to create something, and they have the natural right to own and control what they have created. With this policy change, it is hoped that protection of IPR in Indonesia can be stronger and provide proper recognition for creators in controlling and utilizing the results of their work.⁵

Based on the provisions of Article 27(2) of the Universal Declaration of Human Rights, everyone has the right to obtain protection for scientific, literary or artistic creations that they produce, both in moral and material terms. Creators and inventors often need a lot of time and money to create and invent something. If others are allowed to copy and sell their works, then they may not get income from their creations and inventions, or at least will not get enough compensation for the time and money they have spent. This can cause creators and inventors to be reluctant to create and invent something. Therefore, the legal policy towards the protection of Intellectual Property Rights (IPR) is important and needs to be studied. Some of the reasons why the legal policy towards IPR is interesting to study include:⁶

1. IPR policy has existed since the Dutch East Indies era using the principle of concordance. This shows that IPR policy has long been implemented in Indonesia.
2. Violations of IPR often occur due to the lack of awareness of the Indonesian people regarding the importance of respecting intellectual property, especially creative works.
3. The large number of IPR violations shows that the implementation of legal political policies on IPR protection is still not optimal in society.

³ V. Selvie Sinaga, 'Faktor-Faktor Penyebab Rendahnya Penggunaan Hak Kekayaan Intelektual Di Kalangan Usaha Kecil Menengah Batik', *Jurnal Hukum Ius Quia Iustum*, 21.1 (2014), 61–80

⁴ Afifah Kusumadara, 'Pemeliharaan Dan Pelestarian Pengetahuan Tradisional Dan Ekspresi Budaya Tradisional Indonesia: Perlindungan Hak Kekayaan Intelektual Dan Non-Hak Kekayaan Intelektual', *Jurnal Hukum Ius Quia Iustum*, 18.1 (2011), 20–41

⁵ Luh Inggita Dharmapatni, 'Hak Cipta Sebagai Suatu Objek Jaminan Fidusia', *Lex Journal: Kajian Hukum & Keadilan*, 2.2 (2018)

⁶ Iswi Hariyani, 'Penjaminan Hak Cipta Melalui Skema Gadai Dan Fidusia', *Jurnal Hukum IUS QUIA IUSTUM*, 23.2 (2016), 294–319

Based on the explanation above, this article will discuss the legal policy regarding IPR protection before and after the ratification of the TRIPS Agreement.

Research Method

This study aims to analyze the legal policy of protecting Intellectual Property Rights before and after the ratification of the TRIPS Agreement. This study uses a normative legal approach. The results of the study indicate that changes in Intellectual Property Rights laws in Indonesia after the ratification of the TRIPS Agreement have expanded the protection of Intellectual Property Rights in this country.

Results and Discussion

Intellectual Property Rights Legislation in Indonesia Prior to the TRIPS Agreement

The first IPR Law in Indonesia was a Dutch legal product implemented by the Dutch East Indies colonial government during the colonial period. The Dutch colonial government was also a participant in the Paris Convention and the Berne Convention on behalf of its colonies. In Indonesia, the legal system implemented is a pluralistic legal system, where Dutch law applies to European and Asian citizens, while customary law is used for indigenous people, except in some cases that cover everyone or when customary law is considered to be in conflict with recognized western principles of justice. Customary law does not recognize the existence of IPR, so most Indonesian people rarely or never deal with IPR law, except in the case of the Trademark Law.⁷

Changes in political policy towards Intellectual Property Rights in Indonesia began after the ratification of TRIPs (Agreement on Trade Related Aspects of Intellectual Property), which is part of the agreement establishing the World Trade Organization (WTO). Indonesia's participation in the WTO requires this country to adjust national legislation governing Intellectual Property Rights. Norms and standards for the regulation and protection of Intellectual Property Rights contained in the TRIPs agreement must be immediately adopted into Intellectual Property Rights legislation in Indonesia, so that harmonization is created with the rules applicable in other countries. The TRIPs Agreement has three main characteristics, namely:⁸ 1) focuses more on norms and standards that are different from other international agreements, especially in trade in goods; 2) as a minimum requirement, TRIPs stipulates full compliance with several international agreements in the field of Intellectual Property Rights; 3) TRIPs also includes provisions on strict law enforcement and dispute settlement mechanisms that provide the right for aggrieved countries to take retaliatory measures in the field of trade.

In addition to the three characteristics mentioned above, there are also three other elements contained in TRIPs that need to be considered by countries that want to adjust their national legislation in the field of Intellectual Property Rights. These three elements are new norms, higher standards, and strict law enforcement.⁹ With the new norms, countries are expected to adopt new rules governing Intellectual Property Rights. In addition, higher

⁷ Khoirul Hidayah and Ulama Hanafiah, 'Kajian Hukum Islam Terhadap Hak Merek', Kajian Hukum Islam Terhadap Hak Merek, 6.1 (2014), 1–9.

⁸ Sri Mulyani, 'Pengembangan Hak Kekayaan Intelektual Sebagai Collateral (Agunan) Untuk Mendapatkan Kredi Perbankan Di Indonesia', Jurnal Dinamika Hukum, 12.3 (2012), 568–78

⁹ Liana E Susanti, 'Economic Law Creation Beautiful Global Indonesia', Bestuur, 7.1 (2019), 47–53

standards are also applied to ensure better protection of Intellectual Property Rights. Lastly, strict law enforcement is important to ensure that violations of Intellectual Property Rights can be effectively prosecuted.

In addition to Indonesia's participation as a member of the WTO which requires changes in regulations related to Intellectual Property Rights, another factor that influences changes in legal policy in Indonesia is pressure from external parties. At that time, Indonesia was the only ASEAN country that was still included in the Priority Watch List by the USTR (United States Trade Representative) regarding violations of Intellectual Property Rights. The USTR is an institution that reviews records from trading partner countries of the United States. In 2000, Indonesia's ranking improved to the Watch List category after the government submitted a Bill on Industrial Design, Trade Secrets, and Integrated Circuit Layout Design, as well as a Bill on the Revision of the Patent and Trademark Law. However, this ranking did not last long because in 2001 and 2002, Indonesia was again included in the Priority Watch List category.¹⁰

Although Indonesia has improved legal regulations related to Intellectual Property Rights, law enforcement, especially against intellectual property by US companies, is still considered weak. Not only against US companies, enforcement of intellectual property rights against domestic products is also still weak.¹¹ For example, there are still many pirated goods circulating in the Indonesian market. This shows that there are still challenges in enforcing intellectual property rights in Indonesia.¹²

The circulation of pirated goods in Indonesia is caused by several factors. One of them is because of the limited ability of the community to buy original goods. With the competition between pirates, the price of original goods is depressed so that the price of pirated goods becomes cheaper. This makes people as consumers tend to choose to buy pirated goods at a more affordable price than original goods. In addition, the public's ignorance of the protection of Intellectual Property Rights is also a contributing factor. Many people do not realize the importance of protecting the intellectual property rights of an item. The expression that often circulates in the community that "why buy something more expensive if there is something cheaper" is also the reason why pirated goods are popular in Indonesia.¹³ With the implementation of the WTO, the Indonesian government suffered a loss of around \$1.9 billion. However, unfortunately the Indonesian government did not detail how to calculate it. Since the adoption of TRIPS and Indonesia's involvement in global trade, two different views have emerged regarding Intellectual Property Rights. The first view is that Intellectual Property Rights in Indonesia and the enforcement of its rights are part of an international agreement that Indonesia has participated in. Therefore, adjustments need to be made even though there

¹⁰ I.G.A.K. Rachmi Handayani, Lego Karjoko, and Abdul Kadir Jaelani, 'Model Pelaksanaan Putusan Mahkamah Konstitusi Yang Eksekutabilitas Dalam Pengujian Peraturan Perundang-Undangan Di Indonesia', *Bestuur*, 7.1 (2019), 36–46

¹¹ Adrian Sutedi, *Hak Atas Kekayaan Intelektual*, Sinar Grafika, Jakarta, 2013, 28

¹² Ahmad Dwi Nuryanto, 'Problem Penyidikan Tindak Pidana Pencucian Uang Yang Berasal Dari Predicate Crime Perbankan', *Bestuur*, 7.1 (2019), [54]

¹³ Febry Wulandari and W Waluyo, 'Efektivitas Pemanfaatan Dana Bagi Hasil Cukai Hasil Tembakau Dalam Bidang Kesehatan Di Kota Surakarta Tahun 2018', *Jurnal Bestuur*, 7.1

are unequal positions and opportunities. The second view is that international agreements on Intellectual Property Rights are part of the WTO which will strengthen the inequality between countries in the world and provide advantages first to advanced industrial countries.¹⁴

Under WTO rules, more and more Transnational companies are claiming Intellectual Property Rights, including patents and plants, plant seeds, and other products originating from developing countries that were previously not considered to belong to anyone. For example, Pioneer Hi-Breed International from the United States holds 17 rice patents, while Mitsui Toatsu Chemical from Japan holds 13 patents. In fact, there are claims for intellectual property rights related to traditional products such as tempeh by Japanese companies. Many argue that Intellectual Property Rights regulations are a new form of colonialism carried out by developed countries against developing countries. This situation also affects members of the House of Representatives when formulating the Draft Law on Intellectual Property Rights, where there are dual attitudes towards this regulation. For example, there are differences of opinion regarding the level of criminal penalties for violators of intellectual property rights. In addition to the problem of dissemination and socialization of the concept of intellectual property rights, another major problem is law enforcement. This is related to the problem of dissemination, where the intellectual property rights system provides legal protection for owners of intellectual works. Meanwhile, the concept of intellectual property rights continues to develop. The inclusion of intellectual property rights in the international trade system is one example of such development.¹⁵

The birth of TRIPS (Trade-Related Aspects of Intellectual Property Rights) in the context of international politics needs to be seen whether the renewal of the intellectual property rights system in Indonesia is only done to accommodate this. Or can Indonesia, with its artistic, cultural, biodiversity, and other local potentials, highlight these characteristics related to local potential. Indonesia also actively plays a role in the international community to continue to develop an intellectual property rights system that is beneficial to humanity.¹⁶

Changes in Intellectual Property Rights Legislation Post TRIPS Agreement

The birth of changes to the Intellectual Property Rights Law cannot be separated from the pressure from developing countries to reform intellectual property protection in Indonesia. Intellectual Property Rights legally exist if there is legal protection, auspices or protection from the state or public authority for an intellectual work. Through a documentation management mechanism, rights are granted to intellectual property rights applicants, including investors, designers and brand owners. There are three main elements in this case: exclusive rights, country, and a certain period of time. With rights granted by public authorities, exclusivity or ownership grows so that the owner can prohibit others from using

¹⁴ C.D. Balenina, 'Partisipasi Masyarakat Dalam Pengelolaan Desa Sampah Mandiri Di Desa Kalisoro Tawangmangu, Kabupaten Karanganyar', *Bestuur*, 7.1 (2019), 26–35

¹⁵ Maria Alfons, 'Implementasi Hak Kekayaan Intelektual Dalam Perspektif Negara Hukum', *Legislasi Indonesia*, 14.03 (2017), 1–10.

¹⁶ Ni Ketut Supasti, 'Relevansi Hak Kekayaan Intelektual Dengan Hak Asasi Manusia Generasi Kedua', *Jurnal Dinamika Hukum*, 14.3

those rights without permission.¹⁷ In addition to granting rights, protection, shelter, or legal protection, the second is law enforcement. There is no point in granting rights if there is no adequate law enforcement. Essentially, exclusive rights are monopolies for a certain period of time and with certain conditions.¹⁸ Intellectual property rights are individual rights. Intellectual works that have been obtained or have been packaged exclusively become "property", so that the owner of the work can create a market with supply and demand. This happens because the implementation of the intellectual property rights system meets the needs of the wider community. Therefore, in intellectual property rights, such as patents, an element of industrial applicability is required, namely the ability of the invention in question to be applied in industry. In short, intellectual property rights are a driver of economic growth.¹⁹

With the ratification of TRIPs in Indonesia, several regulations on the protection of Intellectual Property Rights have been made referring to several points of implementation of TRIPs. Basically, TRIPs covers three main issues. First, regulations that regulate general regulations and basic principles followed by WTO member countries. Second, standards regarding the granting, scope, and use of each Intellectual Property Right mentioned in the TRIPs agreement. And third, provisions relating to the obligations of WTO member countries to enforce the law in the field of Intellectual Property Rights, including legal efforts that can be taken to protect and defend Intellectual Property Rights.²⁰

The TRIPs Agreement was established with the aim of reducing disruptions and obstacles to international trade and promoting effective and adequate protection of Intellectual Property Rights. It also aims to ensure that the processes and enforcement measures relating to Intellectual Property Rights do not become barriers to trade. To achieve these objectives, various new rules and monitoring systems are needed, including:²¹

- a. Implementation of the basic principles of GATT 1994 and various International Agreements and Conventions related to Intellectual Property Rights.
- b. Enforcement of adequate standards and principles regarding the granting of rights, scope, and use of Intellectual Property Rights in trade activities.
- c. Provision of effective and appropriate means to protect Intellectual Property Rights related to trade, taking into account differences in national legal systems.
- d. Provision of effective and expeditious procedures for preventing and resolving disputes between governments.
- e. Transitional rules that allow full participation in the agreements resulting from negotiations.

¹⁷ Sigit Nugroho, 'Perlindungan Hak Kekayaan Intelektual Dalam Upaya Peningkatan Pembangunan Ekonomi Di Era Pasar Bebas Asean', *Supremasi Hukum: Jurnal Penelitian Hukum*, 24.2 (2017), 164–78

¹⁸ Roisah and others.

¹⁹ Kholis Roisah, 'Kebijakan Hukum "Transferability" Terhadap Perlindungan Hak', *Jurnal Law Reform*, 11.2 (2015), 24–54.

²⁰ Winda Risna Yessiningrum and others, 'Perlindungan Hukum Indikasi Geografis Sebagai Bagian Dari Hak Kekayaan Intelektual', 2015, 42–53.

²¹ Kusumadara.

All of this aims to create an environment conducive to fair trade and protect Intellectual Property Rights.

The first part of the TRIPs agreement sets out general provisions and basic principles that must be implemented by participating countries. One of the commitments that must be fulfilled is to provide equal treatment nationally to all citizens of WTO participating countries or WIPO members in terms of intellectual property rights. Another principle contained in the TRIPs agreement is the principle of “free to determine”. This principle allows each WTO participating country or WIPO member to determine the most appropriate method by implementing the provisions contained in the TRIPs agreement into their respective national legal systems and practices. Thus, countries have the freedom to adjust the TRIPs agreement according to their own needs and legal conditions.²²

In addition, WTO member countries or WIPO members can also apply a broader protection system than that required by the TRIPs Agreement, as long as it does not conflict with the provisions contained in the agreement. Thus, these countries can make more specific provisions as a further elaboration of the provisions contained in the TRIPs Agreement or other agreements in the field of Intellectual Property Rights. Indonesia, as a member of WIPO and WTO, is given the freedom to apply broader provisions in its national legal system related to the protection of Intellectual Property Rights. The TRIPs Agreement only contains minimum standards of legal protection in this field. Therefore, Indonesia has issued new laws and regulations regarding Intellectual Property Rights which replace the old regulations originating from the Dutch East Indies era. This is done to avoid a legal vacuum in the protection of Intellectual Property Rights.

Several provisions in the TRIPs Agreement that can fill the gap in legal instruments in the field of Intellectual Property Rights include Rental Rights for copyright holders of video/film recordings and computer programs, protection for Performers, Producers of Phonograms, Sound Recording and Broadcasts, regulations on Geographical Indication, protection of Layout Design and Integrated Circuit, and protection of Undisclosed Information).²³

Some changes in national legal regulations related to Intellectual Property Rights that are adjusted to TRIPS provisions include:

- a. Extension of the copyright protection period for computer programs from 25 years to a minimum of 50 years in accordance with the provisions of TRIPS.
- b. Expansion of the contents of the Rights granted in Patents and Trademarks to include the right to prohibit the import of products protected by Patents, in addition to other rights such as using, renting, or selling without permission.
- c. Increase in the patent protection period from 14 years to 20 years in accordance with the requirements of TRIPS.
- d. Introduction of a reverse evidence system to protect Patent Rights holders from proceedings, even in civil cases.

²² Hidayah and Hanafiah.

²³ Hariyani.

- e. Obligation to provide special legal protection for technological discoveries in the field of new plant varieties, although countries have the option to exclude them from the National Patent system under TRIPS.

Along with the adjustment of the national legal system to the provisions of TRIPS, Indonesia has issued several new laws and government regulations in order to protect Intellectual Property Rights. These laws and government regulations include:

- a. Law Number 30 of 2000 on Trade Secrets, which aims to protect business information that has economic value and is kept confidential so that it is not misused by other parties.
- b. Law Number 31 of 2000 on Industrial Design, which provides legal protection for industrial designs that have aesthetic and unique value.
- c. Law Number 32 of 2000 on Integrated Circuit Layout Design, which protects integrated circuit layout designs used in the electronics industry.
- d. Government Regulation Number 51 of 2007 on Geographical Indications, which provides legal protection for products originating from a particular region and having quality or reputation associated with that region.

These laws and government regulations are Indonesia's efforts to fulfill TRIPS provisions and protect Intellectual Property Rights in this country.

Indonesia has taken steps as a follow-up to the provisions of TRIPS in national legislation in the field of Intellectual Property Rights. In addition to agreeing to TRIPS, Indonesia has also agreed to and signed the Uruguay Round Agreement on April 15, 1994. As a consequence, the Indonesian government has ratified the Agreement Establishing the World Trade Organization through Law Number 7 of 1994 concerning the ratification of the Agreement Establishing the World Trade Organization.

The law covers Trade Related Aspects of Intellectual Property Rights Including Trade in Counterfeit Goods, as explained in the explanation in Part IV letter C number 11. This is the result of the Uruguay negotiations which include agreements in the field of services and agreements in the field of Intellectual Property Rights. Thus, Indonesia has taken steps to fulfill its international commitment to protect Intellectual Property Rights.²⁴ In the Explanation of Law Number 7 of 1994, in Part IV letter C number 11, it is stated that negotiations in the field of Trade Related Aspects of Intellectual Property Rights Including Trade in Counterfeit Goods are aimed at:

- 1. Increase protection of Intellectual Property Rights of traded products. This aims to protect intellectual property rights owners from infringement and counterfeiting of their products.
- 2. Ensure procedures for implementing Intellectual Property Rights that do not hinder trade activities. The aim is to ensure that the implementation of intellectual property rights does not hinder the flow of trade and does not create unnecessary obstacles for traders.

²⁴ Muhammad Yuris Azmi, 'Nomor 28 Tahun 2014 Tentang Hak Cipta Dan Undang-Undang Tentang Jaminan Fidusia', Universitas Sebelas Maret, IV.1 (2016), 97-106.

3. Formulate rules and disciplines regarding the implementation of protection of Intellectual Property Rights. This aims to create a clear and disciplined legal framework in protecting intellectual property rights, so as to provide legal certainty for rights owners and encourage innovation and creativity.
4. Carry out principles, rules, and mechanisms for international cooperation to handle trade in counterfeit or pirated goods of Intellectual Property Rights. The aim is to create international cooperation in handling the problem of trade in counterfeit or pirated goods that violate intellectual property rights, so as to protect rights owners and prevent economic losses caused by such illegal trade..

The World Intellectual Property Organization (WIPO) is an international authority under the United Nations responsible for the protection of Intellectual Property Rights worldwide. WIPO has important regulations related to Intellectual Property Rights regulations. As a WIPO participating country and a party that has ratified the Uruguay Round and TRIPS Agreements, Indonesia continues to strive to adjust its national legal system related to Intellectual Property Rights. One of the efforts made is the issuance of Law Number 28 of 2014 concerning Copyright.²⁵ This new law provides a clearer interpretation of performing arts, computer programs, and photography as creative works. In addition, Indonesia also issued Law Number 13 of 2016 concerning Patents, which replaces the previous Patent Law that has been in effect since 2001. This new Patent Law regulates patents in more detail, including the validity period of a simple patent license for ten (10) years and an ordinary patent for twenty (20) years. In addition, the Indonesian Government is also issuing a Draft Law on Trademarks, which will further regulate trademarks.²⁶ All these efforts are made to strengthen the protection of Intellectual Property Rights in Indonesia and ensure compliance with international regulations set by WIPO.

One of the interesting things in the Draft Law on Trademarks is its inclusion of Geographical Indications. This is different from previous laws and regulations where Geographical Indications were regulated separately from the Trademark Law. This change is based on Indonesia's position as a member of the World Trade Organization (WTO) and aims to minimize disputes related to Intellectual Property Rights in international and domestic trade. By including Geographical Indications in the Draft Law on Trademarks, it is hoped that it can provide better protection for products originating from a particular region and have a good reputation due to the quality or special characteristics associated with that region. This can also prevent misuse or counterfeiting of products by using the wrong name or region of origin. With this change, it is hoped that Indonesia can be more effective in protecting Intellectual Property Rights in international and national trade, as well as ensuring compliance with regulations set by the WTO.²⁷

²⁵ Widya Marthauli Handayani, 'Keberlakuan Hukum Hak Cipta Sebagai Objek Jaminan Fidusia Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta', *Jurnal Legislasi Indonesia*, 16.2 (2019), 214–24.

²⁶ Ferry Kiandi, 'Perlindungan Hukum Dalam Transaksi Margin Trading Dan Short Sales Di Pasar Modal', FH Universitas Sumatera Utara, 2014, 1–18.

²⁷ I Made Bagus and Satria Yudistira, 'Merek Sebagai Jaminan Fidusia dalam Proses Pengajuan Kredit di Perbankan Berdasarkan Undang-Undang Nomor 20 Tahun 2016 magister hukum udayana ', 20, 2017, 310–22.

Conclusion

Based on the results of the discussion above, the following conclusions can be drawn:

First, With the new law replacing the old law from the colonial era, the understanding and scope of Intellectual Property Rights protection in Indonesia has become broader. This shows an effort to follow international developments in terms of Intellectual Property Rights protection.

Second, the changes to the Intellectual Property Rights Law in Indonesia cannot be separated from the ratification of the TRIPS Agreement and Indonesia's involvement in international trade. This shows Indonesia's commitment to comply with international regulations related to Intellectual Property Rights.

The author's suggestion is that Indonesia should pay attention to the communal property rights inherent in traditional communities when ratifying the Intellectual Property Rights Law. This is because the current regulation of Intellectual Property Rights in Indonesia still prioritizes the individual rights of creators and pays less attention to the communal rights held by traditional communities. By paying attention to these communal rights, it is hoped that a balance can be created between the protection of Intellectual Property Rights and the interests of traditional communities.

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