

## Protection of Intellectual Property Rights for Health Access during the Covid-19 Pandemic



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**ABSTRACT:** Protection of intellectual property rights regarding health access during the Covid-19 pandemic has created problems because there is no legal protection. The aim of this research was to analyze the protection of intellectual property rights on health access during the Covid-19 pandemic. The formulation of the problem in this research is, first, how important is the protection of intellectual property rights? second, how to protect intellectual property rights on access to health during the Covid-19 pandemic. This research method uses a type of normative-doctrinal legal research. The results of this research conclude that government and law enforcement efforts are needed to protect intellectual property regarding health access during the Covid-19 pandemic.

**KEYWORDS:** Intellectual Property; Health; Covid-19.

### I. INTRODUCTION

Intellectual property (IP) is rooted in the idea that intellectual works created by humans involve sacrifices of time, energy and costs. This sacrifice gives economic value to the work because of the benefits obtained. This concept encourages the need for recognition of the work through legal protection for IP. Essentially, IP can be explained as wealth that arises from human intellectual abilities (Alfons, 2017). One aspect of economic development is related to intellectual property rights, which continue to develop in line with advances in science and technology. The more advanced science and technology become, the more important it is to protect intellectual property rights, which encourages countries to formulate related regulations. The term "intellectual property" is a translation of "intellectual property rights" which refers to creations, inventions and brands. Intellectual property rights are regulated by WIPO (World Intellectual Property Organization) (Harsono, 1990).

Violations of brand rights are carried out with the aim of making profits in an easy way, such as imitating, copying or counterfeiting brands that are already well known in the community. In common law, this offense is known as "passing off". Passing off refers to legal protection for goods or services because the product already has a reputation. This legal protection means that business competitors do not have the right to use brands, logos or similar forms in the products they produce (Harsono, 1990). Concluded that traditional knowledge needs to be protected within the framework of Intellectual Property Rights (IPR), including in the context of the patent regime as regulated by Article 26 of the Patent Law. However, challenges to the protection of traditional medicines arise due to incompatibility with existing patent requirements. To address this, government steps could include creating new laws that are better suited to protecting traditional medicines (Sari, 2019). The impact is very significant on the public health and economic sectors. However, not only the economy and health, but also social, religious, educational and other aspects are also affected, reducing the maximum potential of each field.

The emergence of the Covid-19 disease pandemic has disrupted almost all important aspects of human life. This outbreak began in Wuhan, China, and spread to almost all corners of the world. In Indonesia, the impact has been felt since March 2 2020, and the World Health Organization (WHO) declared it a global pandemic on March 11 2020 (Asriansyah, 2022). The global spread of the Corona Virus Disease 2019 (COVID-19) virus is a problem that has hit all countries in the world without exception, including Indonesia. It is known that the impact of the COVID-19 pandemic has affected human life and all its activities, especially the economy. The International Monetary Fund (IMF) estimates that COVID-19 could cause a global recession that is more severe than the 2008 global economic crisis.

Vaccination is one option that is considered the most effective in dealing with COVID-19, but is limited by Intellectual Property Rights (IPR). The owner of the IPR has the exclusive right to prevent other parties from using or producing the vaccine, thereby causing obstacles. On the other hand, the state has an obligation to ensure access and availability of the COVID-19 vaccine for its people, so state intervention is necessary. The COVID-19 problem has led to a government response to ensure that people can continue to carry out activities in accordance with their respective fields. Significant impacts can be seen in the health sector, such as the high number of cases of respiratory diseases which cause symptoms of fever, cough, flu, shortness of breath and loss of the

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sense of taste. On the other hand, in the economic field, many companies are experiencing bankruptcy, reducing employees with drastic layoffs, even the International Monetary Fund (IMF) estimates that the global recession caused by COVID-19 may be worse than the global financial crisis in 2008 (BBC News, 2020).

The impact of COVID-19 on companies in various regions of Indonesia has resulted in a decrease in the number of employees with the cancellation of contracts for many employees. This also affects purchasing managers in Indonesia's manufacturing industry, reduces import activity, and increases vacancies in the tourism sector due to reduced occupancy (Yamali, 2020). In the midst of global conditions currently affected by the COVID-19 pandemic, especially in Indonesia which is facing many obstacles from various sectors, the government has implemented policies to control the spread of COVID-19 through policy steps that have been established in health aspects such as:

1. Minister of Home Affairs Regulation no. 20 of 2020 concerning the Acceleration of Handling Corona Virus in local government environments;
2. Circular Letter of the Ministry of Health of the Republic of Indonesia Number HK.02.02/MENKES/56/2020;

The President of the Republic of Indonesia issued Decree no. 7 of 2020 which established the Task Force for the Acceleration of Handling Corona Virus. One of the steps taken by the Indonesian government to tackle COVID-19 is by introducing the COVID-19 vaccine. The vaccines used come from abroad and are imported from various vaccine producing countries. The process of importing this vaccine involves a time-consuming procedure. The country's vigorous efforts to import vaccines also involve significant costs and resources. The use of this vaccine is considered a step forward to reduce and increase immunity among the public. Medicines such as vitamins and vaccines provide economic benefits to the countries that develop them. The use of vaccines also makes an important contribution to Indonesia in dealing with the COVID-19 pandemic. Apart from the business activities involved in vaccine production, vaccine production is basically aimed at speeding up the handling of the pandemic in a way that does not infect and prevent the spread to communities affected by the COVID-19 outbreak in the surrounding area.

Intellectual property related to medicines is granted through patents as part of the protection of Intellectual Property Rights (IPR), as a tribute to the discovery process that involves time, thought and intelligence. Patent rights provide exclusive rights attached to them, which stipulate that other people may not make, use, or sell works that have been created by other people without permission from the owner or creator (Hasibuan, 2008). Intellectual Property Rights in development in Indonesia have a very important role, especially in the economic sector, such as (Pramitha, 2022):

1. Patent information contained in the patent description has a role as technology transfer and investment.
2. In high-level environments and research institutions have a role as supporters of research and development.
3. In new technology and business it has a role as a catalyst.
4. Business collects and uses patents in the form of developing joint venture licenses and other transactions that can generate profits or benefits.

This poses a challenge to intellectual property in the context of global health through protection of the discovery of medicines such as vaccines, vitamins and other products used to overcome the COVID-19 pandemic. Intellectual Property Rights (IPR) will provide protection to inventors and facilitate access to necessary medicines. Additionally, intellectual property, backed by exclusive rights, drives a country's economy to develop medicines needed during the COVID-19 pandemic. The steps taken by the government are also clear and fast in handling the handling of COVID-19 by facilitating regulations and permits for the development of vaccines and medicines needed for the public, both those infected with COVID-19 and those at risk of contact with infected individuals.

According to the author's analysis and observations, it appears that during the COVID-19 pandemic there have been violations of intellectual property, especially related to the lack of protection for the use of traditional medicines in a fair manner and with adequate legal protection. Apart from that, there are also medicines that are sold but do not meet appropriate intellectual property standards.

## II. RESEARCH METHOD

This research applies a doctrinal legal approach that focuses on legal and conceptual analysis. This doctrinal method systematically explores the rules governing a particular legal category, analyzes the relationships between rules, clarifies complex areas, and can predict future developments (Marzuki, 2011). Doctrinal research is also a type of normative legal research that is library in nature because it focuses on the analysis of written regulations and other legal materials (Soekanto & Mamudji, 2004). The data used in the research comes from legal documents.

Researchers use documents as the main source of legal material, rather than relying on sources, in accordance with the normative research approach. (Suteki, 2020). The legal materials used by researchers in this research are Law Number 28 of 2014 concerning Copyright (UUHC) and the Patent Law with implementation procedures referring to Presidential Regulation Number 77 of 2020. Meanwhile, secondary legal materials include books, journals and views of legal experts. (Muhaimin, 2020). Collection of legal materials is carried out through literature study. The method applied is descriptive analytical qualitatively with a deductive logic approach.

### III. RESULT AND DISCUSSION

#### Regulations for the Protection of Intellectual Property Rights in Indonesia

The long-standing presence of intellectual property law in several regulations basically allows integration with other legal components in its implementation, as stated by Lawrence M. Friedman. This requires a structure in the form of agencies or institutions that are formed systematically with various functional types to support its sustainability. Next, a substantial component is needed such as systematic regulations or norms that are born from this system, and the last is culture or habits, namely behavior that directs society to the law, which is related to the legal system.

Protection of intellectual property involves a lengthy process and requires major sacrifices in its development, including significant effort and time. The main aim of this protection is to provide legal certainty to creators and encourage trust for other people to continue working. Legal implementation must always prioritize the protection of IP, especially in the aspect of legal substance that can safeguard IP through preventive measures and action against any violations that occur in various relevant legislative contexts, which will be explained further.

Until now, the existence of IP still depends on the natural rights inherent in every individual from birth along with their ability to create, as explained by John Locke in the Theory of Natural Rights. Locke emphasized that natural rights are the basis for all forms of government based on the constitution. Industrial property includes patents for all kinds of innovations, trademarks and industrial designs as well as geographical indications. In addition, copyright covers literary works such as poetry and novels, paintings, architectural designs, and other works of art, as well as the production of phonograms, radio broadcasts, and television programs. In Indonesia, regulations related to the protection of intellectual property rights are regulated separately based on the type of intellectual property. For example, in protecting science and literature, this field receives protection through Law Number 28 of 2014 concerning Copyright (UUHC). To strengthen the protection of exclusive rights, as regulated in Article 1 Paragraph (1) UUHC, creators have powers that are recognized as exclusive rights based on declarative principles which are automatically granted after their intellectual property is created. Protection of exclusive rights in the digital era can be done with various technologies such as hardelr marking, visible marking, encryption and copy protection. Article 4 UUHC stipulates that exclusive rights are divided into two types, namely economic and moral rights.

Intellectual property rights are rights or powers that are exclusively owned over certain intellectual property, which are regulated by applicable norms or laws. Intellectual property rights include rights that are immaterial, which means they cannot be seen or touched because intellectual property rights originate from ideas, imagination and human thoughts (Latifiani, 2022). The Indonesian government understands that implementing the intellectual property rights system is a very important obligation. This is reinforced by Indonesia's membership in the WTO and the obligation to comply with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in accordance with Law Number 7 of 1994 concerning Ratification of the Establishment of the World Trade Organization (Sardana, 2020).

Intellectual Property Rights are rights that provide legal protection for intellectual property in accordance with applicable legal provisions (as regulated in Article 1 paragraph 15 of Law of the Republic of Indonesia Number 18 of 2002 concerning the National System for Research, Development and Application of Science and Technology of Property Rights Intellectual). Legal regulations in Indonesia related to IPR include (Noviriska, 2022):

1. Law Number 29 of 2000 concerning Protection of Plant Varieties, Law Number 30 of 2000 concerning Trade Secrets;
2. Law Number 31 of 2000 concerning Industrial Design, Law Number 32 of 2000 concerning Integrated Circuit Layout Design;
3. Law Number 14 of 2001 concerning Patents; 4. Law Number 15 of 2001 concerning Trademarks;
4. Law Number 19 of 2002 concerning Copyright.

Copyright is the exclusive right given to the creator or owner to reproduce, distribute and control the first use of his or her copyrighted work. Apart from that, creators also have the right to obtain economic benefits from their work, especially in the fields of science, art and literature. Copyright infringement, in its various forms and variations, both in terms of quantity and quality, shows a lack of respect for other people's work which is protected by the Copyright Law (Purwanto, 2019). Every intellectual right is an achievement that must be respected and must not be exploited by others unlawfully. Violation of a person's or group's intellectual property is an attitude that does not respect the uniqueness of the work, which in essence is the enforcement of the "intelligence" produced. Therefore, there are several reasons why protection of intellectual property rights (IPR) is very essential (Nizwana, 2019):

1. Intellectual property rights are inherent rights;
2. Reputation protection;
3. Encourage and reward innovation and creation.

The existence of an intellectual property system that has existed for a long time in several regulations, basically requires the involvement of other components in its implementation, in accordance with the view of Lawrence M. Friedman. This includes the need for an organizational or institutional structure that engages systematically with various functional types to support its implementation. Furthermore, the substantive component emerges as a result of systematic laws or norms that develop within this system. Finally, cultural norms and behavior that direct society towards intellectual property are a related part of this system.

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Protection of intellectual property involves a long process and full of sacrifices for creators. They not only invest time and effort, but are also committed to keeping their work safe and encouraging trust for others to continue creating. The application of the law must consistently emphasize IP protection, including aspects of legal substance that can prevent and take action against any violations that occur in various legal fields, as will be explained further. In Indonesia, regulations related to the protection of intellectual property rights have been prepared separately based on the type of intellectual property itself. For example, in supporting science, arts and literature, there is regulatory protection for intellectual property rights regulated in Law Number 28 of 2014 concerning Copyright (UUHC). Implementation of protection of intellectual property rights is carried out by granting exclusive rights to creators, as explained in Article 1 Paragraph (1) UUHC that creators have the legal power to declare exclusive rights based on declarative principles after their intellectual property work is made public. This right is simply a right that is automatically owned by the creator.

In protecting exclusive rights owned in the digital era, Sulhono and his colleagues explained that this protection can be done using special technology such as hard marking, visible marking, encryption and copy protection. In accordance with Article 4 UUHC, exclusivity rights for creators are divided into two types, namely economic and moral rights. Law Number 13 of 2016 concerning Patents regulates the protection of intellectual property rights related to technology. This law grants exclusive rights to technological innovations to patent owners, with two different types of patents: ordinary patents and simple patents. Article 160 of the Patent Law stipulates criminal sanctions for violators who use patented products without permission, with the threat of a maximum prison sentence of 4 years or a maximum fine of IDR 1 billion. In addition, Article 20 of the Patent Law requires that the creation and processing of patents be carried out in Indonesia, which could hamper the patent process for products with rare raw materials in Indonesia.

The government also has the right to hold patents for national interests, especially in the fields of pharmaceuticals and biotechnology to prevent diseases that can cause mass death. Furthermore, Law Number 30 of 2000 concerning Trade Secrets provides protection for business information and creates an industrial or business climate that can compete both nationally and internationally regarding its intellectual property. Sanctions for people who without their rights disclose or use the contents of trade secrets, as regulated in Article 17 of the Trade Secrets Law, can be subject to a maximum prison sentence of 2 years or a maximum fine of IDR 300 million. Regarding industrial designs, protection is regulated in Law Number 31 of 2000 concerning Industrial Designs which also provides protection to designers who have exclusive rights for 10 years to prevent other people from using their industrial designs without permission. Violation of this provision, in accordance with Article 54 of the Industrial Design Law, can result in a maximum prison sentence of 4 years or a maximum fine of IDR 300 million.

### **Protection of intellectual property rights regarding health access during the Covid-19 pandemic**

Intellectual property rights related to access to affordable medicines remain an important issue. In the government's efforts to implement patents to ensure the availability of antiretroviral drugs, PT. Kimia Farma (Persero) Tbk started production of generic antiviral drugs by establishing its own antiretroviral production facility. However, even though they have started production, WHO quality standards have not been achieved because production costs are still higher compared to importing generic antiretroviral drugs. This is because most of their raw materials have to be imported from abroad, such as India and China, which results in very high production costs (Atmaja, 2021). Nicol and Nielsen (2020) state that patents in the pharmaceutical industry are to protect the rights to drug innovation, because the high costs of research and development make safe, effective and useful drugs available. This means that the drug manufacturer must maintain control of its product on the market to obtain a return on its initial investment. However, the consequences of Law no. 13 of 2016 concerning Patents often leads to domination in production and distribution, making new medicines and vaccines expensive and difficult to access (Abdullah, 2023).

According to him, although it is important to reward new creations, patents have a negative impact by increasing prices and limiting public access to vital medicines. At the international level, the threat of patents to public health has become increasingly real since the WTO introduced IPR as part of an agreement that must be adopted by all member countries. The TRIPs Agreement is an international agreement under the WTO administration that sets minimum standards for various aspects of IPR, including patents, in each member country. The implementation of TRIPs in all WTO member countries involved debate from the start due to differences in economic and development levels between these countries (Raharjo, 2021).

In addition, there is a lack of supervision from the government regarding drug distribution during the COVID-19 pandemic. Many business actors are taking advantage of this situation by selling health products illegally to make quick profits. This practice presents risks for consumers because they may believe that the drug being sold does not have the same problems as the original drug. Based on data from the Food and Drug Supervisory Agency (BPOM), there were around 129 cases reported regarding the sale and marketing of illegal and counterfeit drugs (Prameswari, 2020).

Public awareness is a very important element in the mechanism for protecting exclusive rights in the field of copyright. Facing problems that arise in the field regarding perpetrators of copyright infringement and crimes, it is important to increase the correct understanding of the meaning and scope of copyright. The implementation of clear and firm sanctions from law enforcement officials such as the Police, Prosecutor's Office, Courts, Directorate General of Copyright and Protection, as well as involving creator

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associations, copyright owners and the recording industry is also very necessary (Prameswari, 2020). Immanuel Kant said that a creator has rights that come directly from himself, even though these rights cannot be concretely observed in his work. This concept emphasizes that a person's rights are related to the existence of personal rights (Ramli, 2021).

Law Number 36 of 2009 concerning Health states that every person, family and community has the right to be protected in terms of their health, while the state is responsible for ensuring the maintenance of the right to a healthy life for all its citizens without exception and is not influenced by economic conditions. In facing the COVID-19 pandemic, it is important not only to provide treatment facilities for sufferers, but also to ensure access and availability of the COVID-19 vaccine. As intellectual property, the COVID-19 vaccine is protected by Intellectual Property Rights (IPR) which gives exclusive rights to the replication, production, distribution and sale of the vaccine. Exclusive rights related to patents basically have limitations determined by the public interest, and can be revoked in accordance with statutory regulations. The existence of patents, especially in the pharmaceutical and health sectors, can limit the availability and public access to health services and medicines because patents give the patent owner or inventor the right to control a monopoly over their innovation.

The formation of policies on pharmaceutical production through the implementation of patents by the government is in line with the state's objective which is to ensure survival as a manifestation of the human rights of every community and improve the quality of public health, the implementation of which is regulated through the Patent Law with implementation procedures referring to Presidential Regulation Number 77 of 2020. The COVID-19 Vaccine with a Patent has the potential to be monopolized by the Patent holder/inventor, so that the government in the public interest can limit the limited management of the exclusive rights of the Patent provided that such management does not illegally conflict with the normal exploitation of the Patent and does not harm the interests of the holder. Patent/inventor. This is regulated through the Doha Declaration on the TRIPs Agreement and Public Health, which is carried out through mandatory licensing, with implementation left to each country. In Indonesia the term compulsory licensing is not used but rather government use. There are patent criteria for pharmaceutical products which are classified into 3 criteria when referring to Article 111 letter a of the Patent Law: 1) pharmaceutical products with high prices; 2) pharmaceutical products with high prices and needed to treat diseases that can cause sudden mass death; 3) pharmaceutical products are needed to treat diseases that can cause sudden mass death, cause significant disability, and constitute a World Crisis Public Health Emergency (KKMMD).

The development of a COVID-19 vaccine in response to the pandemic is eligible for mandatory licensing, as this disease condition can cause sudden death in large numbers. In Indonesia, the number of daily deaths due to COVID-19 exceeds 100 cases, with total cases reaching 1,937,652 and deaths reaching 53,476. The implementation of mandatory licensing for the COVID-19 vaccine is in accordance with the provisions of Articles 19 and 20 of Presidential Regulation Number 77 of 2020. The government has the responsibility to form a team involving experts in the fields of law, health, environment, state administration and experts to provide considerations and start the compensation process within 90 days after the decision is taken. Furthermore, the results of the implementation of these duties must be reported to the President within 15 days after the decision is announced, and the final decision will be determined by the President. A copy of the presidential regulation will then be sent to the patent holder.

The presence of the Job Creation Law which changes the content of certain articles relating to the principle of local working has important implications in two time periods: short term and long term. In the short term, harmonizing the distribution, licensing, import and export of Patents will be easier because the local working principle is not applied, so that the distribution and license issuance process can be carried out more quickly considering the COVID-19 emergency which requires quick handling. In the long term, if the local working principle in Article 20 is changed through the Job Creation Law, the consequences will affect technology transfer, opening up investment opportunities, and job opportunities will be threatened with being lost. In addition, the validity period of patents that previously could not be extended will also be lost.

Amendments to the Job Creation Law to Article 20 Patents in the context of handling the COVID-19 emergency can facilitate the response to the pandemic through the COVID-19 vaccine. However, it is feared that possible monopolistic practices could threaten the availability and price of vaccines more easily. This is similar to the crisis in the availability and prices of antiretroviral and Hepatitis B drugs experienced by Indonesia, which ultimately gave rise to a mandatory licensing policy that provides compensation to patent holders of 0.5% of the net sales value of antiretroviral drugs, regulated through a Presidential Regulation Number 76 of 2012 concerning Implementation of Patents by the Government on Antiviral and Antiretroviral Drugs.

The exclusive rights attached to a patent are not unlimited rights which should always place the public interest as the main priority for the results of the invention. Therefore, the potential for monopoly on the COVID-19 vaccine through the revision of Article 20 of the Patent should be considered in more depth.

### **Dynamics of Intellectual Property Rights (IPR) protection for Drug and Vaccine Patent Technology Innovation in the scope of International Trade**

Indonesia, as a country receiving technology and Intellectual Property, still faces challenges in adopting Intellectual Property Rights (IPR) standards, as do other developing countries which experience variations in material standards tailored to the interests of dominant IPR owners, especially multinational companies with large capital. supported by developed countries. In addition, the

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TRIPs Agreement establishes minimum standards for the protection and enforcement of IPRs among WTO members, with a primary focus on areas such as (1) Copyright and related rights; (2) Trademarks, including service marks; (3) Geographical indications; (4) Industrial design; (5) Patents; (6) Integrated circuit layout (topography) design; (7) Confidentiality of information, including trade secrets.

International trade and the issue of Intellectual Property Rights (IPR) play a central role in discussions regarding human intellectual creation. The TRIPs Agreement is an international agreement that generally regulates IPR protection, where several parties consider TRIPs as a step forward in global trade cooperation. For developed countries, IPR protection has become an important requirement to protect products from unfair competition, stimulate innovation, and to increase investment flows. When developing countries do not provide adequate protection for IPR, this can result in a decrease in the interest of investors from developed countries to import the latest technology and allocate their capital to developing countries. TRIPs was born in response to the pressure exerted by developed countries to protect their interests in the domain of Intellectual Property Rights.

During the pandemic, there have been changes in dynamics related to the protection of Intellectual Property Rights (IPR), especially related to investment in the production of Covid-19 Vaccine Patents. Several countries have proposed to set aside the TRIPs Agreement, which has given rise to conflict in international trade regarding standards in the Agreement on Trade-Related Aspects of Intellectual Property Rights. This agreement sets minimum standards for IPR regulation in each WTO member in the international context. The TRIPs Agreement, as an international agreement, regulates IPR regulations as minimum standards in the countries involved.

Intellectual property protection controlled by the pharmaceutical industry in developed countries has become dominant. Therefore, handling Covid-19 faces major challenges, especially because pharmaceutical companies are still following normal business practices. In the face of this pandemic, it is critical to ensure that everyone around the world can access the protection they need without anyone being left behind. Various challenges in handling the Covid-19 pandemic include vaccine efficacy and safety, as well as accessibility in terms of price, availability and quality, as well as allocation and distribution problems. With business involvement by companies, it is clearly difficult to overcome these challenges, especially if intellectual property rights remain closely guarded. Covid-19 is a global problem that affects the entire world community. However, each country seems to have more protective policies according to its own interests. Therefore, it is important to strengthen and implement multilateral policies universally.

The proposal to ignore TRIPs (Trade-Related Intellectual Property Agreements) at the WTO, submitted by India and South Africa on October 2 2020, aims to allow countries to temporarily not implement or waive intellectual property rights related to handling Covid-19, such as drugs, test kits, vaccines or other technology, as long as the pandemic lasts until global immunity is achieved. This step is important to facilitate more flexible policy making for all countries, especially developing countries, regarding research, local manufacturing, supply chains and other aspects needed to deal with the Covid-19 pandemic. Indonesia has expressed its support for this proposal, although there is still significant debate between countries that support and those that do not support it in the discussion process.

Even though Indonesia supports the TRIPs Waiver proposal, the government will still pay attention to how the dynamics of this proposal will affect its global impact, whether it will be implemented comprehensively or there will be further negotiations. Therefore, Indonesia's position tends to be to find a middle point, because if this proposal is too extreme, it is feared that it will be difficult to accept politically.

### CONCLUSIONS

Intellectual Property Rights are rights that provide legal protection for intellectual property in accordance with applicable legal provisions. The intellectual property rights inherent in humans include moral rights and also exclusive rights, one of which is intellectual property rights which have been regulated by the government in Law Number 19 of 2002 concerning Copyright. Implementation of protection of intellectual property rights is carried out by granting exclusive rights to creators, as explained in Article 1 Paragraph (1) UUHC that creators have the legal power to declare exclusive rights based on declarative principles after their intellectual property work is made public.

One form of protection from the government for the public during the pandemic regarding medicines is by establishing regulations contained in the Patent Law with implementation procedures referring to Presidential Regulation Number 77 of 2020. However, there are several changes to the Job Creation Law regarding Article 20 Patents in the context of emergency management of COVID-19 can facilitate the response to the pandemic through the COVID-19 vaccine.

During the pandemic, there have been changes in dynamics related to the protection of Intellectual Property Rights (IPR), especially related to investment in the production of Covid-19 Vaccine Patents. Several countries have proposed to set aside the TRIPs Agreement, which has given rise to conflict in international trade regarding standards in the Agreement on Trade-Related Aspects of Intellectual Property Rights.

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### REFERENCES

- 1) Adi Sumarto, Harsono. 1990. Hak Kekayaan Intelektual Khususnya Paten dan Merek Dagang. Jakarta: Akademik Presindo.1.
- 2) Ahmad M. Ramli, Rika Ratna Permata, Ranti Fauza Mayana & Tasya. 2021. Perlindungan Kekayaan Intelektual Dalam Pemanfaatan Teknologi Informasi Pada Masa Covid-19. Jurnal Penelitian Hukum De Jure. Vol. 21, No. 1. 47.
- 3) Dian Latifiani, Alya Fatimah Azzahra & Oktora Tri Wanida. 2022. Pentingnya Hak Kekayaan Intelektual Sebagai Hak Milik Atas Hak Cipta Atau Merek Perusahaan. Rule of Law: Journal of Legal Research. Vol. 31, No. 1. 65.
- 4) Hasibuan, Otto. 2008. Hak Cipta di Indonesia. Bandung: Alumni. 63.  
<https://www.google.co.id/amp/s/www.bbc.com/indonesia/dunia-51720514.amp>, accessed on June 15 2024 at 10.32 WIB.
- 5) I Gusti Ayu Nadya Candra Pramitha. 2022. Perlindungan Hukum Terhadap Vaksin Covid-19: Perspektif Hak Kekayaan Intelektual Indonesia. Jurnal Kertha Semaya. Vol. 10 No. 7. 1560-1573.
- 6) Ilham Kurniawan Abdullah & Happy Yulia Anggraeni. 2023. Dilematisasi Hukum Kekayaan Intelektual pada Paten Farmasi dan Vaksin Pada Masa Pandemi Covid-19, Jurnal Justitia: Jurnal Ilmu Hukum dan Humaniora. Vol. 6, No. 2. 321.
- 7) Iwan Purwanto & Tini Rusmini Gorda. 2019. Perlindungan Hukum Bagi Pemilik Hak Kekayaan Intelektual Atas Gambar yang Diambil dari Internet untuk Kepentingan Ekonomi, Jurnal Analisis Hukum. Vol. 2, No. 2. 195.
- 8) Layang Sardana, Suryati, Ramanata Disurya. 2020. Perlindungan Hukum Hak Kekayaan Intelektual Hasil Penelitian Dosen. Jurnal Solusi. Vol. 18, No. 1. 2.
- 9) Maria Alfons. 2017. Implementasi Hak Kekayaan Intelektual dalam Perspektif Negara Hukum, Jurnal Perundangundangan Indonesia. Vol. 14, No. 3, 304.
- 10) Marzuki, Peter Mahmud, 2011. Penelitian Hukum. Jakarta: Kencana Prenada Media Group. 35.
- 11) Muhaimin. 2020. *Metode Penelitian Hukum*, Mataram: Mataram University Press.
- 12) Muhammad Faniawan Asriansyah, Pandemi Covid 19 dan Upaya Pencegahan,  
<https://www.djkn.kemenkeu.go.id/artikel/baca/15799/Pandemi-Covid-19-dan-Upaya-Pencegahan.html>, accessed on June 15 2024 at 09.25 WIB.
- 13) Ni Komang Ayu Weda Sari. 2019. “Peraturan Perlindungan Hukum Obat Tradisional Berdasarkan Perspektif Hak Kekayaan Intelektual,” Jurnal Ilmu Hukum. 6, No. 2. 15.
- 14) Noviriska. 2022. Perlindungan Hak Kekayaan Intelektual Bagi Pelaku Ekonomi Kreatif Berdasarkan Undang-Undang Hak Kekayaan Intelektual Nomor 28 Tahun 2014 Tentang Hak Cipta, Jurnal Ilmiah Publik, Vol. 11, No. 2. 300.
- 15) Raden Bagoes Prasetyo Raharjo, Kholis Roisah. 2021. Hak Akses Kesehatan Masyarakat Terhadap Hak Paten Produk Farmasi. Jurnal Tinjauan Hukum USM. Vol. 4, No. 2. 608.
- 16) Sekar Ayuning Prameswari & Iwan Erar Joesoef. 2020. Tanggung Jawab Membonceng Produk Kesehatan dalam Sistem Legal Merek: Menjual Produk Kesehatan di Situs Online yang Memanfaatkan Pandemi Covid-19, Prosiding: Call For Paper. NCOLS. 208.
- 17) Soekanto, Soerdjono, dan Sri Mamudji. 2004. Penelitian Hukum Normatif, cet ke-8. Jakarta: PT. Raja Grafindo Persada.14.
- 18) Suteki, 2020. Metodologi Penelitian Hukum (Filsafat, Teori, dan Praktek). Depok: Rajawali Pers
- 19) Yamali, Rozi Fakhrol, dan Ririn Noviyanti Putri. 2020. “Dampak Covid-19 Terhadap Perekonomian Indonesia”. Ilmu Ekonomi: Jurnal Ekonomi dan Bisnis 4. No.2. 384-388.
- 20) Yulia Nizwana & Rahdiansyah. 2019. Perlindungan Hak Kekayaan Intelektual (Haki) Ditinjau dari Epistemologi, Jurnal Kajian Hukum UIR. Vol. 3. No. 2. 36.
- 21) Yustisiana Susila Atmaja, Budi Santoso & Irawati. 2021. Perlindungan Hukum Paten Produk Farmasi Terhadap Pelaksanaan Paten Oleh Pemerintah (Government Use), Jurnal Masalah Hukum. Vol. 50. No. 2. 202.



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