

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 30 OF 2000
ON
TRADE SECRET¹

BY THE GRACE OF GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that in order to advance industry which is able to compete within the scope of national and international trades, a climate which encourages public creation and innovation is needed, by granting legal protection against Trade Secret as part of Intellectual Property Right system;
- b. that Indonesia has ratified Agreement Establishing the World Trade Organization (*Persetujuan Pembentukan Organisasi Perdagangan Dunia*), which encompasses Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement), through Law [Number 7 of 1994](#), thus, provisions regarding Trade Secret need to be addressed;
- c. that based on considerations as referred to in letter a and letter b, Law on Trade Secret is necessary to be enacted;

In view of:

1. Article 5 paragraph (1), Article 20, and Article 33 of the 1945 Constitution;
2. Law [Number 7 of 1994](#) on Ratification of Agreement Establishing the World Trade Organization (*Persatuan Pembentukan Organisasi Perdagangan Dunia*), (State

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Gazette of the Republic of Indonesia 1994 Number 57, Supplement to the State Gazette Number 3564);

3. Law [Number 5 of 1999](#) on Prohibition of Monopoly Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia of 1999 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 3817).

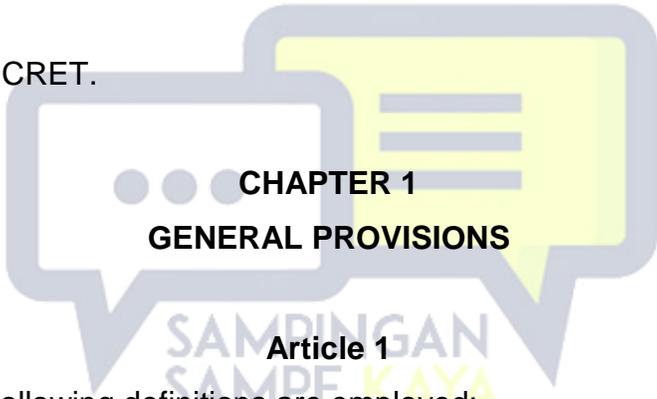
With the agreement of

HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact:

LAW ON TRADE SECRET.



CHAPTER 1
GENERAL PROVISIONS

Article 1

Under this Law, the following definitions are employed:

1. Trade Secret is information which is unknown by the public within the sectors of technology and/or business, having economic value due to being useful in the course of business venture, and its confidentiality is kept by the owner of Trade Secret.
2. Trade Secret Right is right to trade secret which arises based on this Law.
3. Minister is Minister who is in charge for Department, of which, one of the scope of its duties and responsibilities encompasses the sector of Intellectual Property Right, including Trade Secret.
4. Directorate General is Directorate General of Intellectual Property which is under the Department that is led by Minister.

5. License is permit which is granted by holder of Trade Secret Right to another party using an agreement based on the granting of right (not assignment of right) to enjoy economic benefit of a Trade Secret which is granted with protection for certain time period and certain requirements.

CHAPTER II

SCOPE OF TRADE SECRET

Article 2

Scope of protection of Trade Secret encompasses production method, processing method, sale method, or another information within the sectors of technology and/or business which has economic value and unknown by the general public.

Article 3

- (1) Trade Secret gains protection if such information is confidential in nature, has economic value, and its confidentiality is kept, through reasonable efforts.
- (2) Information is considered to be confidential is such information is only known by certain parties or not publicly known by the public.
- (3) Information is considered to have economic value if the confidentiality nature of such information may be used to operate commercial venture or business or able to increase economic profit.
- (4) Confidentiality of information is considered to be kept if the owner or owners who control it have performed appropriate and proper measures.

CHAPTER III
RIGHTS OF TRADE SECRET OWNERS

Article 4

Trade Secret owner has the right to:

- a. personally use Trade Secret which is owned by it;
- b. grant license to or prohibit another party to use Trade Secret or disclose such Trade Secret to third party for commercial interest.

CHAPTER IV
ASSIGNMENT OF RIGHT AND LICENSE

First Division

Assignment of Right

Article 5

- (1) Trade Secret Right may be automatically assigned or intentionally assigned due to:
 - a. inheritance;
 - b. grant;
 - c. testament;
 - d. written agreement; or
 - e. other causes which are justified under laws and regulations.
- (2) Assignment of Trade Secret Right as referred to in paragraph (1) is accompanied with documents on assignment of right.
- (3) Any forms of assignment of Trade Secret Right as referred to in paragraph (1) must be recorded at Directorate General by paying fees as addressed under this Law.
- (4) Assignment of Trade Secret Right which is not recorded at Directorate General does not have legal consequence to third party.
- (5) Assignment of Trade Secret Right as referred to in paragraph (3) is published in Official Gazette on Trade Secret.

Second Division

License

Article 6

Holder of Trade Secret Right is eligible to grant License to another Party based on License Agreement in order to perform acts as referred to under Article 4, unless it is agreed otherwise.

Article 7

Without derogating provisions as referred to under article 6, holder of Trade Secret Right may still personally exercise or grant License to third party to exercise acts as referred to under Article 4, unless it is agreed otherwise.

Article 8

- (1) License agreement must be recorded at Directorate General, with imposition of fees as addressed under this Law.
- (2) License agreement on Trade Secret which is not recorded at Directorate General does not have legal consequence against third party.
- (3) License agreement as referred to in paragraph (1) is published in Gazette of Trade Secret.

Article 9

- (1) License agreement is prohibited from addressing provisions which may cause consequence that injures Indonesian economy or addressing provisions which cause unfair business practices as addressed under prevailing laws and regulations.
- (2) Directorate General must refuse recordation of License agreement which addresses provisions as referred to in paragraph (1).
- (3) Provisions on recordation of License agreement are addressed under Decree of the President.

CHAPTER V FEES

Article 10

- (1) Recordation of assignment of right and recordation of License agreement on Trade Secret are imposed with fees, of which, the sum is determined under Regulation of the Government.
- (2) Further provisions on requirements, time period, and procedures for payment of fees as referred to in paragraph (1) are addressed under Decree of the President.
- (3) Directorate General, upon approval from Minister and Minister of Finance, may independently manage fees as referred to in paragraph (1) and paragraph (2) based on prevailing laws and regulations.

CHAPTER VI DISPUTE RESOLUTION

Article 11

- (1) Holder of Trade Secret Right or Licensee may file claim against anyone who deliberately and unlawfully commits acts as referred to under Article 4, in the forms of:
 - a. indemnity claim; and/or
 - b. suspension of all acts as referred to under Article 4.
- (2) Claim as referred to in paragraph (1) is filed to District Court.

Article 12

Asides from resolution of claim as referred to under Article 11, the parties may resolve such dispute through arbitration or alternative dispute resolution.

CHAPTER III

VIOLATION OF TRADE SECRET

Article 13

Violation of Trade Secret also occurs if a person deliberately discloses Trade Secret, violates agreement or violates written or unwritten obligation to keep Trade Secret in question.

Article 14

A person is deemed to violate Trade Secret of another party if it obtains or possesses such Trade Secret using the method which is in contradictory with prevailing laws and regulations.

Article 15

Act as referred to under Article 13 is not deemed as violation of Trade Secret if:

- a. the act of disclosing Trade Secret or the use of such Trade Secret is based on the interests for public defense, security, health, or safety;
- b. the act of reverse engineering of product that is produced from the use of Trade Secret as owned by another person, that is performed solely for the purpose of further development of product in question.

CHAPTER VIII

INVESTIGATION

Article 16

- (1) Asides from Investigating Police Officer of the State of the Republic of Indonesia, Investigating Officer from Civil State Apparatus within the scope of Department, of which, its scope of duty and responsibility encompasses Intellectual Property Right, is granted with special authority as investigator as referred to under the Law [Number 8 of 1981](#) on Criminal Procedural Law, in order to perform criminal investigation within the sector of Trade Secret.

- (2) Investigator as referred to in paragraph (1) is authorized to:
- a. perform examination on truthfulness of report or statement in relation to criminal act within the sector of Trade Secret;
 - b. perform examination against party who commits criminal act within the sector of Trade Secret;
 - c. inquire statement and evidence from the parties in connection with the event of criminal act within the sector of Trade Secret;
 - d. perform examination on bookkeeping, recordation and other document in relation to criminal act within the sector of Trade Secret;
 - e. perform examination at certain premises which is alleged to have evidence on bookkeeping, recordation and other document;
 - f. perform seizure against material and/or goods as the outcome of violation, which may be classified as evidence in the case of criminal act within the sector of Trade Secret; and/or
 - g. request for assistance from expert in the event of performance of investigation duty against criminal act within the sector of Trade Secret.
- (3) Investigating Officer from Civil State Apparatus as referred to in paragraph (1), in the course of performing its duty, notifies the commencement of investigation and reports its investigation result to Investigating Police Officer of the State of the Republic of Indonesia.
- (4) In case investigation has been concluded, Investigating Officer from Civil State Apparatus as referred to in paragraph (1) submits the result of its investigation to Public Prosecutor through Investigating Police Officer of the State of the Republic of Indonesia, with consideration given to provisions under Article 107 of Law on Criminal Procedural Law.

CHAPTER IX CRIMINAL PROVISIONS

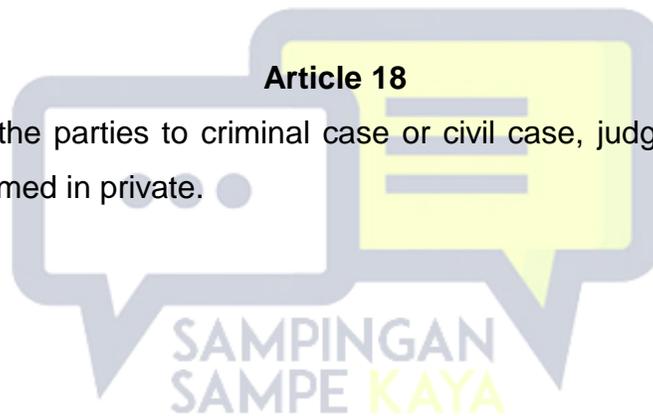
Article 17

- (1) Any person who deliberately and unlawfully uses Trade Secret of another party or commit act as referred to under article 13 or Article 14, is sentenced with imprisonment of 2 (two) years at maximum and/or fines in sum of IDR 300,000,000 (three hundred million rupiahs) at maximum.
- (2) Criminal act as referred to in paragraph (1) is complaint offense.

CHAPTER X MISCELLANOUS PROVISIONS

Article 18

Upon request from the parties to criminal case or civil case, judge may order that the proceeding is performed in private.



CHAPTER XI
FINAL PROVISIONS

Article 19

This Law enters into force on the promulgation date.

For the purposes of public cognizance, it has been ordered that the promulgation of this Law should be achieved through its publication in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 20 December 2000

PRESIDENT OF THE REPUBLIC OF INDONESIA,
signed.

ABDURRAHMAN WAHID

Promulgated in Jakarta
on 20 December 2000

STATE SECRETARY
OF THE REPUBLIC OF INDONESIA

signed.

DJOHAN EFFENDI

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2000 NUMBER 242

**ELUCIDATION OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 30 OF 2000
ON
TRADE SECRET**

I. GENERAL

As developing country, Indonesia has to make effort on the existence of tough competition within business society. Such matter is in line with condition within the sectors of trade and investment. Such kind of competitiveness has been known for so long within the system of Intellectual Property Right, such as Patent. In Patent, as reward of exclusive right which is granted by the state, inventor should disclose its finding or invention. However, not all investors or business society willing to disclose such finding or invention. They wish to keep confidentiality of their intellectual creation. In Indonesia, the issue on such confidentiality exists under several separate regulations, which is not yet a single codified regulation system.

The needs on legal protection against Trade Secret is also in line with one of the provisions under Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement) which serves as the appendix to Agreement Establishing the World Trade Organization (*Persetujuan Pembentukan Organisasi Perdagangan Dunia*), as ratified by Indonesia using Law [Number 7 of 1994](#).

Existence of such protection will encourage the birth of new finding or invention, of which, although it is treated as secret, it may still obtain legal protection, both in terms of ownership, possession and utilization by its inventor.

In order to manage the administration of Trade Secret in the current situation, Government appoints Department of Law and Human Rights, Directorate General of Intellectual Property Right to be specific, in order to perform service within the sector of Intellectual Property Right. Considering the broad nature of such duty and responsibility, it is not impossible that in the future, Directorate General which is in charge for Intellectual Property will develop as another body which is independent

within the scope of Government, including to be independent in terms of financial management.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Self-explanatory.

Article 3

Paragraph (1)

“Reasonable efforts” refer to all measures which contain the level of reasonableness, appropriateness, and properness that should be performed. For example, in a company, there should be standard procedure based on best practice which prevails at another premises and/or as incorporated into internal rule of such company. Also, in internal rule of company, it may be addressed on how such Trade Secret is maintained and who is responsible for such confidentiality.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 4

Self-explanatory.

Article 5

Paragraph (1)

As property right, Trade Secret may be automatically assigned or be intentionally assigned to another party, such legal event may occur, among others, in the forms of grant, testament, or inheritance. Specifically for assignment of right based on agreement, this provision determines the need of such assignment of right to be performed based on deed. Such condition is important considering the broad and complex aspect which is encompassed. “Other causes which are justified under laws and regulations”, for instance, court decision which relates to bankruptcy.

Paragraph (2)

“Documents on assignment of right” refer to documents which show the occurrence of assignment of Trade Secret right. However, such Trade Secret is still not disclosed.

Paragraph (3)

“Must be recorded” at Directorate General only regarding to data which are administrative from documents on assignment of right and does not encompass the substance of Trade Secret which is agreed to.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Matters which are published in Official Gazette of Trade Secret only regarding data which are administrative and does not encompass the substance of Trade Secret which is agreed to.

Article 6

Differs from agreement which becomes the basis for assignment of Trade Secret, License only grants right which is limited and with limited time. Hence, License may only be granted for the consumption or use of Trade Secret within certain time period. Based on consideration that the nature of Trade Secret which is

private from another party, exercise of License is performed by sending or directly assigning expert who is able to keep such Trade Secret.

It differs, for instance, from granting technical assistance which is usually performed in the event of performance of project, operation of new machine or another activity which is specifically designed in the event of technical assistance.

Article 7

This provision is intended to emphasize the principle that License is non-exclusive.

It means that License still grants possibility for another third-party owner. Whether it will be made otherwise, such matter should be explicitly declared in such License agreement.

Article 8

Paragraph (1)

“Must be recorded” at Directorate General only regarding to data which are administrative aspect of documents on assignment of right and does not encompass the substance of Trade Secret which is agreed to.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Matters which are published in Official Gazette of Trade Secret only regarding data which are administrative and does not encompass the substance of Trade Secret which is agreed

Article 9

Paragraph (1)

Self-explanatory.

Paragraph (2)

Recordation is refused by Directorate General if the content of such License agreement will be able to cause consequence that injures Indonesian

economic interest. For instance, such agreement addresses obligation which cannot be deemed to be fair by Licensee, such as obstructing the transfer-of-technology process to Indonesia.

Paragraph (3)

Self-explanatory.

Article 10

Self-explanatory.

Article 11

Self-explanatory.

Article 12

“Alternative dispute resolution” refers to negotiation, mediation, conciliation, and other method which is chosen by the parties in accordance with prevailing Law.

Article 13

Self-explanatory.

Article 14

Self-explanatory.

Article 15

Letter a

Self-explanatory.

Letter b

“Reverse Engineering” refers to an act of analysis and evaluation in order to know information on an existing technology.

Article 16

Self-explanatory.

Article 17

Self-explanatory.

Article 18

Self-explanatory.

Article 19

Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 4044

