



Legal Analysis of Patent Transfer: Process, Challenges, and Implications for Rights Holders

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Info Articles

Article History

Received : 2025-08-6

Revised: 2025-08-19

Published: 2025-09-30

Keywords:

Legal analysis; Patents;

Transition; Challenges;

Implications

Abstract

This study aims to discuss the process of transferring patent rights. This study uses a normative method by examining the legal regulations, namely Law Number 13 of 2016 and Government Regulation Number 46 of 2020. And also through a literature approach to books and scientific journals in compiling this journal. The results of the study indicate that the transfer of patent rights can be done in six ways as stated in Article 74 Paragraph 1 of Law Number 13 of 2016. Analysis related to this transfer includes initial steps such as submitting a registration for the transfer of rights, challenges in registering the transfer of rights, and the implications for the rights holder. Patents themselves function to protect the inventor's rights to the invention they created so that the inventor's rights are not seized.

I. INTRODUCTION

In the era of the industrial revolution 4.0 and the increasingly rapid development of digital technology, inventions in the field of technology have become one of the driving forces of global economic growth.(Anggraini and Muslim 2025)New discoveries, whether in the form of products or processes, are born from the creativity and intelligence of inventors to simplify human life, increase work efficiency, and create new business opportunities. However, behind this progress, major challenges arise related to the protection of intellectual property rights, particularly patent rights. Without adequate legal protection, technological creations are vulnerable to being seized, misused, or commercialized by unauthorized parties. This situation not only harms inventors economically but can also dampen the spirit of innovation and create legal uncertainty.

According to Article 1 paragraph (1) of Law Number 13 of 2016 concerning Patents, a patent is an exclusive right granted by the state to an inventor for the results of his invention in the field of technology for a certain period of time, with the right to implement the invention himself or give permission to another party to implement it.

Inventions, as stated in Article 1 paragraph (2) of the same law, include ideas expressed in a specific problem-solving activity in the field of technology, whether in the form of products or processes, including the improvement or development of both. Patents function as legal protection as well as economic support for inventors, because they ensure that the moral rights and economic rights to the invention remain under the control of the owner.(Ritonga, Tanjung, and Permatasari 2024)In this context, the first to file principle, that the first party to register an invention is the one entitled to a patent, is a fundamental principle to prevent unilateral takeover or claims by other parties.(Mustafa and SH 2022).

However, the reality on the ground shows that patent protection does not stop at the registration stage. Patent rights as exclusive rights can also be transferred to other parties through various means, such as inheritance, grants, wills, endowments, written agreements, or other legitimate reasons according to statutory regulations as stipulated in Article 74 paragraph (1) of Law Number 13 of 2016. The process of transferring these rights creates a more complex legal dimension than simply registering a patent. The transfer of patent rights must be recorded

and comply with the provisions of Government Regulation Number 46 of 2020 concerning the Requirements and Procedures for Recording the Transfer of Patent Rights in order to be legally valid. On the other hand, there is a fundamental difference between the transfer of patent rights and the granting of a license: a license only grants certain economic rights to another party without transferring the moral rights of the inventor as the primary owner.

The problem that then arises is how to effectively and legally transfer patent rights, and what challenges rights holders face in practice. Patent transfers often face obstacles in the form of ownership disputes, limited legal understanding, or misuse of agreements that harm the original inventor. Furthermore, the legal implications of the transfer of rights for both the grantor and grantee often result in economic and moral consequences that are not fully understood by the parties.

Based on this background, this study is entitled "Legal Analysis of Patent Rights Transfer: Process, Challenges, and Implications for Rights Holders." This study aims to examine in depth the mechanism of patent rights transfer according to Indonesian laws and regulations, identify obstacles that arise in practice, and analyze the legal and economic impacts that arise for rights holders. Thus, this study is expected to provide a more comprehensive understanding of the importance of regulation and legal certainty in the patent rights transfer process as part of efforts to protect intellectual property amidst the rapid development of technology and innovation.

II. RESEARCH METHODS

The research method used in this work is normative legal research, a method that emphasizes the study of positive legal norms, legal principles, and the principles applicable in the legal system. This approach was chosen because the research focuses on analyzing the legal provisions governing the patent transfer process, both in terms of legislation and relevant legal doctrine. (Jonaedi Efendi, Johnny Ibrahim, and Se 2018).

In this study, the author uses Law Number 13 of 2016 concerning Patents and Government Regulation Number 46 of 2020 concerning the Requirements and Procedures for Recording the Transfer of Patent Rights as the primary basis for examining the mechanisms, requirements, and procedures for the transfer of patent rights. The analysis is conducted by interpreting the relevant articles and examining the legal principles underlying patent protection, including the principles of legal certainty, justice, and utility.

In addition to the legislative approach (*statute approach*), this study also uses a conceptual approach (*conceptual approach*) and literature approach (*literature approach*). The conceptual approach is carried out by examining the doctrines, theories, and opinions of intellectual property law experts to deepen the understanding of the transfer of patent rights, including the fundamental differences between transfer of rights and licensing. Meanwhile, the literature approach is carried out by exploring various scientific references in the form of books, journal articles, and relevant academic publications, to enrich the analysis and provide a comprehensive perspective on the issues studied.

Through normative legal research methods combined with legislative, conceptual, and literature approaches, this research is expected to be able to provide an in-depth, systematic, and critical analysis of the process, challenges, and legal implications of the transfer of patent rights in Indonesia.

III. RESULTS AND DISCUSSION

A. Analysis of the Patent Transfer Process

1. Submission of Application for Transfer of Patent Rights

Submitting an application for the transfer of patent rights in Indonesia is a legal process that requires the fulfillment of a number of steps and administrative requirements in accordance with statutory provisions. Government Regulation Number 46 of 2020 concerning the Requirements and Procedures for Recording the Transfer of Patent Rights states in Article 2 paragraph (1) that patent rights can be transferred or assigned either in whole or in part through various means,

including inheritance, grant, will, endowment, written agreement, or other reasons permitted by law. Thus, the transfer of patent rights does not only arise from an agreement between the parties, but can also occur due to legal events, such as the death of the patent holder or the granting of a patent as part of an endowment.(Trinanda, Emirzon, and Syaifuddin 2019).

Applications for registration of transfer of rights can only be made for patents that have been officially granted by the state. This registration is mandatory and is an essential requirement for the transfer to have legally binding force. Once the registration process is complete, the transfer of patent rights will be entered into the General Patent Register and officially announced by the Minister of Law and Human Rights through electronic and/or non-electronic media. This announcement is intended to provide legal certainty to the public and prevent future disputes.(Justice 2015).

The annual fee aspect is also an important part of the transfer mechanism. Based on the provisions of the same regulation, the annual patent fee is charged to the recipient of the rights when the patent is transferred in full for one of the reasons stipulated in Article 2 paragraph (1), unless the patent has been licensed to another party through a licensing agreement or is being implemented by the government. Meanwhile, if the transfer only occurs partially, for example for some claims of invention, the obligation to pay the annual fee can be charged to both the old patent holder and the recipient of the rights, according to the agreement of the parties or the applicable provisions. This provision emphasizes the importance of clarity in the transfer agreement to avoid disputes regarding financial responsibility in the future.(Ardani 2019).

The procedures for registering patent transfers are regulated in detail in Government Regulation Number 46 of 2020. Applicants are required to submit a written application to the Minister of Law and Human Rights in Indonesian. Applications are made by completing an official form and attaching the required supporting documents, either electronically or non-electronically. For applicants who are not

domiciled or do not have a permanent residence in the territory of the Unitary State of the Republic of Indonesia, applications must be made through a legal representative or patent attorney domiciled in Indonesia. Applicants domiciled in Indonesia are also permitted to submit applications through a proxy, and in this case, the proxy's listed address will serve as the applicant's official domicile for all administrative purposes.(Prasetyo and Waluyo 2023).

This series of procedures demonstrates that the transfer of patent rights is not simply a transfer of ownership, but a legal process that prioritizes certainty, transparency, and protection for all parties involved. Careful record-keeping, compliance with annual fee obligations, and clarity of agreements are key to ensuring the transfer of patent rights is fully legally binding and avoids future disputes.(Prasetyo and Waluyo 2023).

2. Patent Rights Transfer Examination and Granting Permit Process

The process of examining and granting patent transfer permits in Indonesia is a series of legal procedures directly supervised by the Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights. This procedure is designed to ensure legal certainty and protect the rights of all parties involved, both the existing patent holder and the new recipient. The process is clearly regulated in Government Regulation Number 46 of 2020 concerning the Requirements and Procedures for Registering Patent Transfers, and involves several important steps that must be completed by the applicant.(Beautiful and).

The first stage is submitting an application, which involves submitting written application documents in Indonesian to the Minister of Law and Human Rights through the Directorate General of Intellectual Property. This application can be submitted electronically through the DJKI online system or non-electronically, by attaching the official form and all required supporting documents. For applicants not domiciled or permanently residing in Indonesia, applications must be submitted through a registered attorney or patent attorney. Domestic applicants are also

permitted to appoint an attorney if desired.(Sadino and Astuti 2018).

The second stage is the formality review. At this stage, the Minister, through the Directorate General of Intellectual Property Rights (DJKI), will assess the completeness of the files and the suitability of the submitted documents. This review is carried out within a maximum of 14 days from the date the application is received. If any documents are found to be incomplete or inconsistencies, the applicant is given the opportunity to complete them within the specified time period. However, if the applicant fails to complete the required documents within the specified time limit, the application will be deemed withdrawn, and the transfer of rights cannot proceed.(Sadino and Astuti 2018).

Once all requirements have been declared complete, the process proceeds to the transfer registration stage. At this stage, the Minister records the transfer of patent rights in the General Patent Register as legal proof that patent ownership has transferred. This registration must be completed within 14 days of the date all requirements are declared complete. This registration has important legal force as it serves as the basis for state recognition of the change in patent ownership status.

Next, the announcement stage is carried out. Once registration is complete, the Minister will announce the transfer of rights through official electronic and/or non-electronic media. This announcement must be made within a maximum of 30 days of the transfer being recorded, and notification must also be delivered directly to the applicant or their attorney. The announcement stage aims to provide information to the public, prevent ownership disputes, and provide transparency regarding the party now legally holding the patent rights.(Sadino and Astuti 2018).

The final step is payment of the annual fee. This obligation is the responsibility of the new patent holder, whether the rights are transferred in full or in part. Payment of the annual fee is a crucial requirement for maintaining the validity of the patent, as failure to pay can result in the patent being invalidated or lapsed. This requirement is exempted if the patent has been licensed to

another party or is being implemented by the government in accordance with statutory provisions.(Sadino and Astuti 2018).

This series of steps demonstrates that the transfer of patent rights is not merely an administrative transaction, but rather a legal process that demands precision and adherence to regulations. Completing all procedures, from application submission to payment of annual fees, provides legal certainty for the new rights holder and ensures the continued validity of patent protection, thus preserving the inventor's exclusive rights and the economic value of the invention.

3. The Role of the Directorate General of Intellectual Property

The Directorate General of Intellectual Property (DJKI) is an echelon I unit under the Ministry of Law and Human Rights that plays a central role in the protection and management of intellectual property rights (IPR) in Indonesia, including the patent transfer process. DJKI is not only an administrative institution, but also has a strategic function as a policy maker, mentor, and supervisor in the national IPR ecosystem.(Bahri, Alam, and Arifin 2025).

In the context of patent transfers, the Directorate General of Intellectual Property Rights (DGIP) is responsible for the entire registration and recording process in accordance with the provisions of Law Number 13 of 2016 concerning Patents and Government Regulation Number 46 of 2020 concerning the Requirements and Procedures for Recording Patent Transfers. This registration is an important legal instrument to ensure that every transfer of rights, whether through inheritance, grant, agreement, or other legitimate reasons, has clear legal force and can be protected.(Bahri et al. 2025).

In addition, the Directorate General of Intellectual Property (DJKI) carries out the function of formulating policies and regulations, which include the preparation of norms, standards, guidelines, criteria, and procedures related to copyright, patents, trademarks, industrial designs, integrated circuit layouts, and trade secrets. This function is based on the Regulation of the Minister of Law and Human

Rights of the Republic of Indonesia Number M.09-PR.07.10 of 2007, which confirms the authority of the DJKI in setting technical standards and developing cooperation and utilization of information technology to improve public services.(Ghifary nd).

In the area of outreach and guidance, the Directorate General of Intellectual Property (DJIP) actively provides education and assistance to business actors, researchers, and the general public regarding the importance of IPR protection. This effort aims to raise awareness that IPR is not only a legal instrument but also an economic asset that can drive national competitiveness and innovation. This education is crucial for patent and intellectual property owners to understand their rights and obligations and to anticipate the risk of infringement.

Furthermore, the Directorate General of Intellectual Property Rights (DJKI) also plays a role in dispute resolution and law enforcement, both through administrative mechanisms and coordination with other law enforcement agencies. This oversight role includes preventing and prosecuting IPR violations, such as counterfeiting, piracy, or unilateral claims of intellectual property. Thus, the DJKI is at the forefront of ensuring legal certainty and protecting the economic rights of IPR holders.

IPR itself provides extensive benefits, not only as legal protection for creators and rights holders, but also as an economic instrument. IPR protection fosters a healthy competitive climate, expands market share, and opens up commercialization opportunities that can increase the added value of creative and technological products. This protection also motivates industry players, researchers, and the public to continue innovating because their work receives legal and economic recognition and rewards.

With a comprehensive role ranging from administration, coaching, policy formulation, education, supervision, to law enforcement, DJKI is not only a protector of ideas and innovation, but also a strategic partner in encouraging the growth of the creative economy, increasing the competitiveness of the national industry, and

realizing Indonesia as a country that values intellectual property.

B. Challenges in Transition

The process of transferring patent rights in Indonesia, despite being clearly regulated in Law No. 13 of 2016 concerning Patents and Government Regulation No. 46 of 2020 concerning the Requirements and Procedures for Recording the Transfer of Patent Rights, still faces various administrative, substantive, and technical obstacles. These obstacles not only cause delays in registration but also have the potential to trigger legal disputes between the parties involved.(Ritonga et al. 2024).

1. Difficulty in Meeting Requirements

The most common difficulties relate to complete documentation. Every type of transfer, whether by inheritance, gift, written agreement, or other legitimate means, requires specific documentation, such as a deed of gift or death certificate. Incomplete documentation can result in the application being rejected or considered withdrawn after the specified deadline.

Furthermore, payment of transfer registration fees and annual fees is often a challenge, especially for applicants who don't understand the fees and legal consequences of late payments. Lengthy bureaucratic processes also add to the challenge. Formal review can take up to 14 business days, while announcements after registration can take up to 30 business days. This uncertainty makes it difficult for applicants who need quick legal certainty, for example, for technology commercialization purposes.(Ritonga et al. 2024).

Another prominent factor is a lack of understanding of legal provisions. Many business owners, particularly Micro, Small, and Medium Enterprises (MSMEs), do not fully understand their rights and obligations after the transfer, including the applicable legal procedures. For applicants domiciled outside Indonesia, the requirement to appoint a local attorney adds complexity and costs, while also requiring a high level of trust in the representative handling the documents and legal process.(Disemadi and Kang 2021).

2. Conflicts with Other Rights Holders

In addition to administrative obstacles, the patent transfer process often gives rise to conflicts of interest between parties. One of the main causes is unclear authority and jurisdiction, for example, when an heir refuses to become a patent holder and chooses to relinquish their rights.(Disemadi and Kang 2021).

Conflicts can also arise due to documentation issues, such as data inconsistencies or incomplete documents. Although the Directorate General of Intellectual Property (DJKI) allows up to 60 working days to complete documents, failure to meet the deadline will automatically withdraw the application, which could lead to disputes between the parties.

The interplay of moral rights and economic rights also contributes to potential disputes. Under the Patent Law, moral rights remain with the inventor even if economic rights are transferred to another party. Differing views between those seeking to optimize economic value and those seeking to safeguard the reputation or integrity of the creation often lead to friction.

On the other hand, conflicts can also arise in the context of licensing and technology use. A licensing agreement only grants permission to use patented technology, not a permanent transfer of patent ownership. When a licensee violates the terms or uses the technology after the patent protection period has expired, legal disputes are difficult to avoid.(Disemadi and Kang 2021).

In a more specific context, the analysis of the transfer of patents as objects of waqf adds a new dimension to the potential for conflict. Article 74 paragraph (1) of Law No. 13 of 2016 does allow patents to be used as objects of waqf, but its practice requires great care, including adjustments to the provisions of Law No. 6 of 2006 concerning Waqf. Differences in interpretation between patent law and waqf law can give rise to uncertainty and disputes.

3. Efforts to Overcome Obstacles

To address these various obstacles and potential disputes, education and legal assistance are key. The government, through the Directorate General of Intellectual Property Rights (DJKI), needs to expand public awareness regarding

patent transfer procedures, provide easily accessible practical guidance, and strengthen digital services to streamline the administrative process.(Disemadi and Kang 2021).

Furthermore, mediation and alternative dispute resolution can be effective in mitigating conflicts between existing and new rights holders, particularly in cases involving moral and economic rights. Collaboration with professional institutions, such as intellectual property consultants and notaries, is also crucial to ensure that any transfer meets legal standards and reduces the risk of future disputes.(Disemadi and Kang 2021).

C. Implications of Patent Transfer for Rights Holders

Patent ownership is a legal instrument that grants exclusive rights to inventors or rights holders over their inventions. The protection afforded encompasses not only legal aspects but also strategically impacts the rights holder's economic position and competitiveness. However, patents also carry various challenges and consequences that require careful understanding and management.(Beautiful and).

1. Benefits Obtained

Patents provide strong legal protection, ensuring that rights holders can prevent others from copying, producing, or selling their inventions without permission. This protection provides a sense of security for innovators by preventing illegal exploitation of their inventions. With these exclusive rights, patent holders have full control over the use and exploitation of their inventions, including setting competitive prices and optimizing potential financial gains.(Beautiful and).

In addition to the immediate financial benefits, patents allow their holders to generate passive income through licensing. Others who wish to use the patented technology or innovation are required to pay royalties under the licensing agreement, creating a long-term revenue stream without the patent holder having to manufacture the product themselves.(Beautiful and).

For small and medium enterprises (MSMEs), patents are a strategic tool for increasing

competitiveness, as legally protected innovations provide a unique advantage in a competitive marketplace. Patented products or technologies also increase consumer trust, as patents represent official recognition of the originality and quality of an invention. This trust strengthens a brand's reputation and attracts consumers seeking innovative products.(Ramli and Putri 2018).

Furthermore, patents are highly attractive to investors and venture capitalists, as legal protection for innovation provides certainty of a return on investment. Investors tend to be more confident in supporting the development of patented products or technologies, as the risk of imitation by competitors is lower. Through licensing, production collaborations, and distribution, patent holders can also expand their market share nationally and internationally without having to manage the entire production process.

In the long term, patent protection serves as a crucial incentive for research and development (R&D). Legal certainty encourages rights holders to continue innovating, improving technology quality, and developing new products, ultimately strengthening the national innovation ecosystem.(Ramli and Putri 2018).

2. Risks and Consequences

Despite providing many benefits, patents also pose legal, economic, and reputational risks that cannot be ignored.(Ramli and Putri 2018).

- a. Risk of Abuse of Rights: Patent holders may face allegations of abuse, such as filing lawsuits against other parties deemed to have infringed their patent, even though their invention does not meet the requirements for a valid patent. Such actions can be categorized as sham litigation and give rise to new legal issues, as well as creating an unhealthy business climate.
- b. Legal Obligations: Patent holders are required to pay an annual fee to maintain their rights. Failure to fulfill this obligation may result in the patent being revoked or removed from the public register, thereby losing legal protection for the invention.

This can result in financial losses and loss of potential long-term earnings.

- c. Potential for Legal Disputes: Patent transfers and licensing agreements often become a source of disputes if the contracts are not clearly drafted. Misunderstandings regarding technology usage limits, royalty amounts, or each party's obligations can trigger lengthy and expensive litigation. These types of disputes are not only costly but also disrupt business activities and hinder patent utilization.
- d. Dependence on Third Parties: When a rights holder licenses its patent to another party, it risks becoming dependent on the licensing partner's performance and compliance. If the licensee violates the terms, fails to pay royalties, or fails to maintain product quality, the patent holder could suffer both financial and reputational damage.
- e. Impact on Innovation: An excessive focus on patent exploitation can sometimes reduce the incentive to conduct further research and development (R&D). Rights holders who focus solely on patent protection and monetization can potentially experience innovation stagnation, thereby losing their competitive advantage in the future.
- f. Reputational Risk: Overly aggressive legal action against competitors or parties perceived to be infringing on a patent can damage a company's image. The public and business partners may perceive the rights holder as an unethical business actor, ultimately impacting business relationships, partnerships, and customer loyalty.

3. The Importance of Careful Management

To maximize benefits and minimize risks, patent holders must manage their rights strategically and professionally. Steps such as drafting clear licensing contracts, conducting compliance audits, and monitoring annual fee payments are essential. Education about intellectual property law and assistance from

intellectual property consultants or attorneys are also crucial to anticipate potential disputes.

Furthermore, maintaining a balance between rights protection and a commitment to innovation will prevent stagnation. Rights holders should continue to invest a portion of their revenues in research and development to remain relevant and competitive amidst rapid technological change.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Patent rights are exclusive rights granted to inventors over their inventions after they are registered with the Directorate General of Intellectual Property (DJKI). These rights include moral rights, which are permanently attached to the inventor and cannot be transferred, as well as economic rights, namely the right to profit from the invention. The transfer of patent rights differs from a license because it involves the full transfer of economic rights, while a license only grants permission to use them. Based on Article 74 paragraph (1) of Law Number 13 of 2016 concerning Patents, the transfer of rights can occur through inheritance, gifts, wills, endowments, written agreements, or other legally valid reasons. The transfer process begins with submitting a registration to the DJKI, followed by examination and recording. Challenges that often arise include completing administrative requirements and potential disputes with other rights holders. New rights holders also need to understand the implications of the transfer, both the economic benefits and the legal risks that may arise.

B. Suggestion

The government needs to increase outreach and provide clearer technical guidance so that applicants understand the transition procedures, so that the risk of disputes and delays can be minimized.

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