

Chapter 28

Intellectual property in Indonesia: A problematic legal transplant

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Beginning in the early 1980s, but with increasing intensity in the past decade, the Indonesian legislature, the People's Representative Assembly (Dewan Perwakilan Rakyat or DPR) has passed and amended Copyright,² Trademark,³ and Patent⁴ Laws. In December 2000, the Assembly also passed Laws on Plant Varieties,⁵ Trade Secrets,⁶ Industrial Designs⁷ and Circuit Layouts,⁸ specifically regulating these areas of intellectual property law for the first time in Indonesia. Further amendments currently await the DPR's approval.

Taken together, these reforms bring Indonesia's statute books much closer into line with the standards of the World Trade Organisation's (WTO) Trade Related Aspects of Intellectual Property (TRIPS) Agreement⁹ and other treaties Indonesia has signed.¹⁰

But despite these laws, Indonesia is an intellectual property-pirating haven. Photocopy shops abound, accepting whole books for copying without question. Copies of popular titles and compulsory school texts are sold in markets and on the streets for a fraction of the cost of the original. The Video Compact Disc (VCD) revolution has hit Indonesia, due mainly to openly-available and affordable pirated disks. Approximately 90 per cent of VCDs sold in Indonesia are pirated (International Intellectual Property Alliance, 2001: 112). In most areas of Indonesia, it is difficult to find retail outlets that sell legitimate copies of computer programs. As a

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2 Law No 6 of 1982, amended by Law No 7 of 1987 and Law No 12 of 1997.

3 Law No 19 of 1992, amended by Law No 14 of 1997 and Law No 15 of 2001.

4 Law No 6 of 1989, amended by Law No 13 of 1997 and Law No 14 of 2001.

5 Law No 29 of 2000.

6 Law No 30 of 2000.

7 Law No 31 of 2000.

8 Law No 32 of 2000.

9 Marrakesh Agreement Establishing the World Trade Organisation (ratified by Law No 7 of 1994).

10 Berne Convention for the Protection of Literary and Artistic Works (ratified in Indonesia by Presidential Decree No 18 of 1997); World Intellectual Property Organisation (WIPO) Copyright Treaty (Presidential Decree No 19 of 1997); Trademark Law Treaty (Presidential Decree No 17 of 1997); Patent Cooperation Treaty (PCT) and Regulation of the PCT (Presidential Decree No 16 of 1997). Indonesia has also entered into several bilateral copyright agreements: (Butt, 2004: 33, 381).

This is a preview. Not all pages are shown.

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