

**CASE NO. 18
PATENT CASE
“PETTY PATENT INFRINGEMENT”**

**THE RULING OF JAKARTA COMMERCIAL COURT
AND
THE RULING OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA**

Case Title	PETTY PATENT INFRINGEMENT
Summary Of Verdict	At the Supreme Court Level (Cassation) 1. Declared the Plaintiff’s lawsuit cannot be accepted; 2. Punished the Plaintiff to pay for legal proceeding fees as much as Rp330.000, - (three hundred thirty thousand Rupiah). At the Supreme Court Level (Cassation) 1. Rejected the CA’s Plaintiff; and 2. Punished the CA to pay for legal proceeding fees as much as Rp 500.000,- (five hundred thousand Rupiah).
Case Number	Commercial Court: 01/HAKI/Paten/2010/P.Niaga/PN.Mks Supreme Court Level (Cassation): 322 K/Pdt.Sus/2011
Regulation References	Law Number 14 of 2001 regarding Patent
Keyword	Patent infringement; Petty patent right

A. CASE FACTS

The Plaintiff claimed that he is the rightful owner of petty patent right no. ID 0 000 656 correspond to petty patent certificate published by Department of Law and Human Rights dated June 14th, 2006. The patronage period for this petty patent was 10 years from the date when the patent accepted, and based on the petty patent right, the Plaintiff has an exclusive right and permit any party to get advantage from the product that is given for the patent. In the Claimant, the Plaintiff stated that the Plaintiff has never give any license to the Defendant and the Co-Defendant. The Plaintiff claimed that the Defendant and the Co-Defendant has done infringement of the Plaintiff’s patent rights by producing, selling, offering or using the invention that had been given the patent.

In the Claimant, the Plaintiff stated that based on The Verdict of Pinrang District Court No. 151/PID.B/2006/PN.Pinrang dated December 19th, 2006 jo. The Verdict of the Supreme Court of Indonesia No. 980 K/Pid.Sus/2008 dated November 19th, 2008 decided that the Co-Defendant has proved validly and convincingly committed a crime for done an infringement of patent right. The Plaintiff stated that the Defendant’s action caused loss for the Plaintiff.

B. JUDGES CONSIDERATION

At the Supreme Court Level (Cassation)

After being unsatisfied with the Commercial Court's Verdict, The Plaintiff from The Commercial Court Level filed for Cassation, and in this level The Plaintiff is called by "Cassation Applicant" (CA). The Judges in the Supreme Court Level considered that the claimants from the CA could not be justified with consideration as follows:

- After examining the memorandum of appeal dated September 7th, 2010 and the counter memorandum of appeal dated October 26th, 2010 in connection with Judex Factie consideration, the Judges decided that the Judges in the Commercial Court Level didn't applied the law wrongly; and
- The Judges also decided that the Judex Factie has given enough and right consideration by stated that the Plaintiff's claim was not acceptable because the Plaintiff's claimant were too soon to be filed.

C. THE VERDICT

At The Commercial Court Level

1. Declared the Plaintiff's lawsuit cannot be accepted;
2. Punished the Plaintiff to pay for legal proceeding fees as much as Rp330.000, - (three hundred thirty thousand Rupiah).

At the Supreme Court Level (Cassation)

1. Rejected the CA's Plaintiff; and
2. Punished the CA to pay for legal proceeding fees as much as Rp 500.000, - (five hundred thousand Rupiah).