

**CASE NO. 19
PATENT CASE
“BATH BASIN PATENT RIGHT INFRINGEMENT”**

**THE RULING OF JAKARTA COMMERCIAL COURT
AND**

THE RULING OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA

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| Case Title | BATH BASIN PATENT RIGHT INFRINGEMENT |
| Summary Of Verdict | <p>At the Commercial Court Level</p> <ol style="list-style-type: none"> 1. Rejected the Plaintiff’s lawsuit entirely; 2. Punished the Plaintiff to pay for legal proceeding fee as much as Rp 916.000, - (nine hundred sixteen thousand Rupiah) <p>At the Supreme Court Level (Cassation)</p> <ol style="list-style-type: none"> 1. Rejected the Respondent’s Cassation Appeal; 2. Granted the CA’s Cassation Appeal; 3. Punished the Respondent of the Cassation Appeal to pay for legal proceeding fees as much as Rp 5.000.000,- (five million Rupiah). |
| Case Number | Commercial Court: 53/Paten/2012/PN. Niaga.Jkt.Pst. Supreme Court Level (Cassation): 295 K/Pdt.Sus-HaKI/2013 |
| Regulation References | Law Number 14 of 2001 concerning Patent |
| Keyword | Patent infringement; Petty patent right |

A. CASE FACTS

The Plaintiff claimed to be the owner of Industrial Design Certificate with registration No. ID 0 031 805-0 and ID 031 806-D, and in this case, the Plaintiff was represented by the Director of CV Kober Industri Plastik. The Plaintiff stated that he received a Providing Notice I and II from the Respondent regarding the product “bath basin” that the Respondent claimed to have similarities with the Respondent’s product “bath basin”. According to the Providing Notice, the Respondent had also made an announcement and warning in the Newspaper for the Patent of Industrial Design.

The Plaintiff claimed that the Respondent’s patent product has no novelty element and had been prior produced by Taizho Tiantou Industry & Trade Co. Ltd (business partner from the Plaintiff) and the Plaintiff had entered into a contract with Taizho Tiantou Industry & Trade Co. Ltd as the legalized seller for the product in Indonesia.

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 called by “Cassation Applicant” (CA). The Judges in the Supreme Court Level things as follows:

- Regarding the Respondent's objection, due to the lapse of period for failing for cassation appeal, the Respondent's Cassation Appeal has to be rejected;
- According to the CA's objection, after examining the memorandum of appeal dated April 1st, 2013, and counter memorandum of appeal dated April 15th, 2013 in relating to Judex Factie consideration, The Ruling of Jakarta Commercial Court has wrongly implied the law with consideration as follows:
 1. The essential thing in gaining the patent right is "the novelty of the invention";
 2. That the "petty patent" registration done by the Respondent in 2010, in fact - previously- had been registered in 2008 and 2009;
 3. Considering the previous consideration, there was no novelty in invention registered by the Respondent because previously the invention has been made by other party
- Regarding to the above consideration, The Judges decided to grant the cassation appeal from the CA and repeal The Ruling of Jakarta Commercial Court No. 53/Paten/2012/PN Niaga Jakarta Pusat.

C. THE VERDICT

At The Commercial Court Level

1. Rejected the Plaintiff's lawsuit entirely;
2. Punished the Plaintiff to pay for legal proceeding fee as much as Rp 916.000, - (nine hundred sixteen thousand Rupiah)

At the Supreme Court Level (Cassation)

1. Rejected the Respondent's Cassation Appeal;
2. Granted the CA's Cassation Appeal;
3. Punished the Respondent of the Cassation Appeal to pay for legal proceeding fees as much as Rp 5.000.000, - (five million Rupiah).