

**CASE NO. 7
PATENT CASE
“PALM OIL PROCESSING”**

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

Case Title	PIERRE CARDIN
Summary Of Verdict	<p>At the Commercial Court Level</p> <ol style="list-style-type: none"> 1. Refused the lawsuit from the Plaintiff for the rests; 2. Punished the Plaintiff to pay the case cost as much as Rp916.000 (Nine Hundred Sixteen Thousand Rupiah). <p>At the Supreme Court Level (Cassation)</p> <ol style="list-style-type: none"> 1. Refused the application of cassation from the Cassation Applicant/the Plaintiff; 2. Punished the Cassation Applicant/the Plaintiff to pay the case cost as much as Rp5.000.000,- (Five Million Rupiah).
Case Number	<p>Commercial Court:</p> <p>66/Pdt.Sus-Paten/2014/PN.Niaga.Jkt.Pst.</p> <p>Supreme Court Level (Cassation) :</p> <p>490 K/Pdt.Sus-HKI/2015</p>
Regulation References	Article 16, 88, 89, 114, 115, and 118 Law Number 14 of 2001 concerning Patents
Keyword	Patent; damage; compensation; unlawful act.

A. CASE FACTS

The case involving an individual person named Dr. Ir. Takal Barus as the Plaintiff against PT. Super Andalas Steel and Government of Indonesia cq Directorate of Intellectual Property Rights as 1st and 2nd Defendant. The Plaintiff, was the patent holder No. ID 0011240 filed on October 1994 and granted on October 2014. There are 9 (nine) claims regarding the Plaintiff right. Whereas, patent that owned by the Plaintiff related to a method and equipment to improve the efficiency of stream in the palm oil processing. Also, if this patent with No. ID 0011240 applied in palm oil processing, it will increase the number of CPO rate from 2,5 to 2,8 which is good for consumer goods. As the Decree of Ministry of Agriculture to all State Owned Enterprises in the business of plantation (PTPN I to PTPN XIV) recommend to use those method which is invented by the Plaintiff. Whereas in 2003, the Plaintiff knows that the Defendant used it inappropriately and produce it with the name Takuma type N-600 and type N-1000 and sell those machines to PTPN IV Pasir Mandoge. In producing those machines, the 1st Defendant without any permit granted from the Plaintiff as the patent holder in producing and selling boiler machines to PTPN Pasir Mandoge and PTPN Gunung Bayu. Whereas, to obtain those patent, the Plaintiff already held a research

and it cost Rp 500.000.000 (five hundred million Rupiah). As the patent holder No. ID 0011240 dated 21 October 1994 with application number P-941799 titled "method and equipment to increase the efficiency of the use of steam in the palm oil processing". Therefore, the Plaintiff as the patent holder have the exclusive rights to carry out the patent that owned by himself and exclude other parties without any permission granted from him to do something that related to the patent. Whereas as the patent holder, the Plaintiff eligible to file a compensation lawsuit in line with Article 118 Law number 14 of 2001 concerning Patent and based on that regulation prohibit other parties to conduct any action without permit granted from the Patent holder, and if it is done, it can be referred as unlawful act. Whereas, on the basis of the Defendant act intentionally produce the machine, the Plaintiff suffered material and immaterial loses.

B. JUDGES CONSIDERATION

At the Commercial Court Level

The primary issue made as a basis by the Plaintiff to file an unlawful act lawsuit considered by the Plaintiff that the use of the patent inappropriately by the Defendant. In order to determine such problems, the judges considered the following factors:

1. Whereas the Plaintiff never pay the annual fee related to the management of the patent since in 2001.
2. Whereas as stipulated in Article 115 Law No. 14 of 2001 concerning Patent, if within 3 (three) consecutive years a Patent holder has not paid the annual fees, shall be deemed void commencing from the date constituting the time limit for the payment for the third year.
3. Whereas, in related to the above, the Plaintiff has no right to file any lawsuit due to the *null and void* status of the Patent.

At the Supreme Court Level (Cassation)

1. In this level, the judge considered that the *Judex Factie* had implemented the laws properly and there was no such mistake. Hence, the judges considered that the application should be rejected.

C. THE VERDICT

At the Commercial Court Level

1. Refused the lawsuit from the Plaintiff for the rests;
2. Punished the Plaintiff to pay the case cost as much as Rp916.000 (Nine Hundred Sixteen Thousand Rupiah).

At the Supreme Court Level (Cassation)

1. Refused the application of cassation from the Cassation Applicant/the Plaintiff;
2. Punished the Cassation Applicant/the Plaintiff to pay the case cost as much as Rp5.000.000,- (Five Million Rupiah).