

IP IMPLEMENTATION EXPERIENCES - SHARING SESSION

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**WEBINAR IP CONVERSATION
WITH WOMAN INNOVATORS & ENTREPRENEURS IN INDONESIA
30 NOVEMBER 2022**

SHARING SESSION

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I. EDUCATION

I am Rahmi Jened, a Full Professor at the Faculty of Law, University of Airlangga, with expertise in Intellectual Property Rights, Corporate Law, and Investment Law. I pursued my degrees in Law Faculty, Airlangga University

1. *Sarjana Hukum* (the Indonesian equivalent of Bachelor of Laws), 1988
2. *Magister Hukum* (equivalent of Master of Laws), 1998, thesis: **“Accustoming Copyright Law and Regulations based on the TRIPS Agreement/*Pengaturan Hak Cipta Terhadap Persetujuan TRIPs*”**

Since Intellectual Property (IP) had been one of legal trending topics, I received many scholarships to fund my thesis research, including from the Toyota Astra Foundation, Bimantara Group, Bakti Persatuan Foundation, Government-funded Postgraduate Scholarship for Young Lecturers (*Beasiswa Program Pascasarjana/BPPS*) and Indonesia-Australia Specialised Training Project (IASTP).

3. *Doktor Ilmu Hukum* (equivalent of Doctor in Law), 2006 (*Cumlaude*), dissertation: **“Abuse of IPR Exclusive Rights/*Penyalahgunaan Hak Eksklusif Hak Kekayaan Intelektual*”**

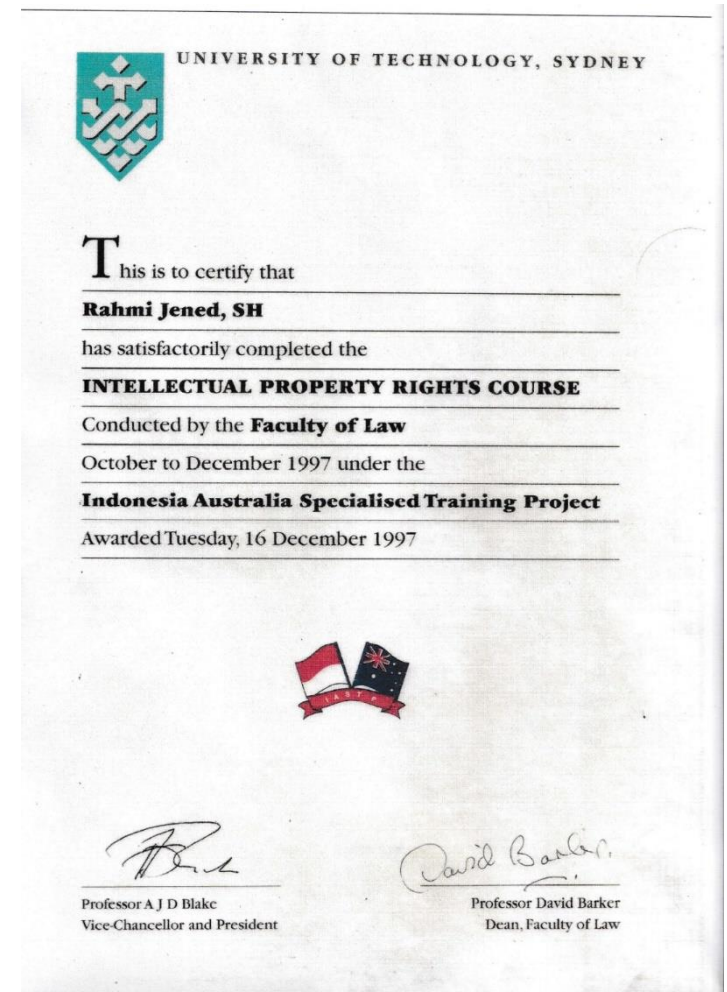
I had the opportunity to conduct the majority of my dissertation research during my training in MIPLC, Germany, and QMUL, UK, within the framework of European Community (EC) – ASEAN Intellectual Property Rights Cooperation Program (ECAP II).

II. INTELLECTUAL PROPERTY (IP) TRAINING EXPERIENCES

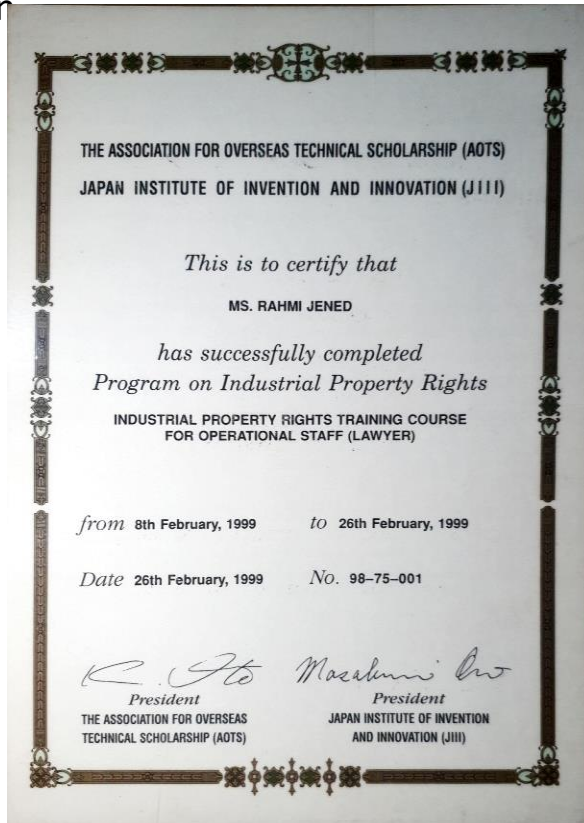
1. In 1994, I was trained by the USAID ELIPs Project on the Formulation of Business Law Curriculum.



2. In 1997, I became the best participant in the IASTP in-house training chapter Lecturer and was sent to study at UTS, Australia. I used this opportunity to conduct research for my Master's program, which was on Copyright Protection based on TRIPs Agreement.



3. In 1998, I received a grant for research on East Java b Businessmen’s Legal awareness of Well-known Marks from Japan Institute of Invention and Innovation(JII) followed by IP Training for Lawyer in Japan



4. In 2000, I received a research grant from Japan International Cooperation Agency (JICA) for East Java S Protection a research and training opportunity in Japan.

rial Design

In 2004-2005, I received a scholarship from ECAP II for training (for a total period of 10 months):

5. at the Max Planck Institute in Germany for 3 months and I used the opportunity to do some research pertaining to my doctoral dissertation
6. and at Queen Mary University of London for 3 months, also conducting a research supporting my doctoral dissertation.



**Certificate
of Participation**

for

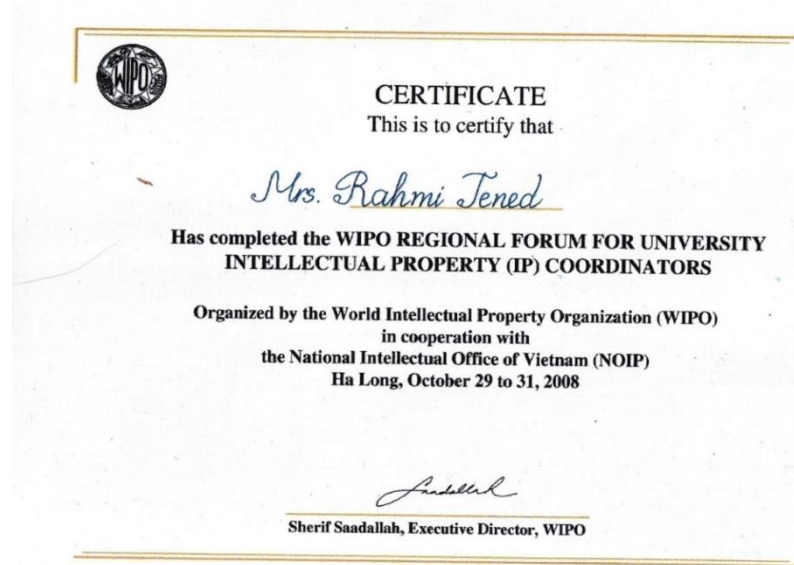
Ms. Rahmi Jened

Munich Intellectual Property Law Center

Academic Year 2004/05



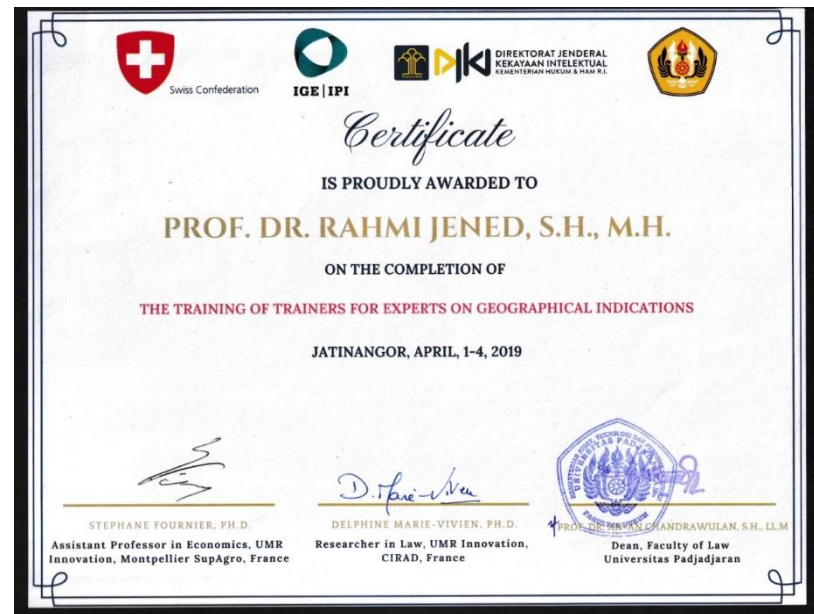
7. In 2008, I received 2 (two) training scholarships from the World Intellectual Property Organization (WIPO) in Vietnam.



8. In the same year 2008, I also was granted a DAAD training scholarship organized in cooperation with Universitas Indonesia, Depok, Indonesia.



9. In 2015, I participated in WIPO training on 'Recent Development of IP' held in University of Indonesia.
10. In 2019, I was awarded a training scholarship at the *Center of International Law (CIL)* in National University of Singapore (NUS) .
11. In 2019, I participated in Geographical Indication Training of Trainers (ToT) at University of Padjajaran held in cooperation between the University, The French Agricultural Research Centre for International Development is a French agricultural research and international cooperation organization (CIRAD), Montpellier SupAgro France, and the Directorate General of Intellectual



III. PROFESSIONAL (OCCUPATIONAL) AND ORGANIZATIONAL EXPERIENCES RELATED TO IP IMPLEMENTATION

In 1990, I became a lecturer in Law Faculty, Airlangga University.

In 1997, after receiving many IP training opportunities, I founded an '**IP Clinic**' at the Law Faculty, cooperating with Prof. Insan Budi Maulana. From 1997 to 2002, I assisted many individuals (such as, several lecturers in Airlangga University) as well as SMEs, in the applications of their intellectual property registrations to DGIP Indonesia. Here are some examples of granted applications:

- a granted simple patent for Mr. R. Dharmawan S, drg. for his half-round *sonde* toothpick invention, '*Tusuk Gigi Model Sonde Setengah Bulat sebagai Pengganti Tusuk Gigi Konvensional*'
- a granted design industry for SMEs *Desa Gajah Bendo Pasuruan* for their jewellery design,
- a granted design industry for Mr. Widarto Banyuwangi for his knife design, '*Pisau Komando Banyuwangi*'.

In 2002, the IP Clinic, which had since been operating at the faculty level, was lifted to the university level and rebranded as the '**IPR Technical Service Unit of Airlangga University/ Airlangga IP Center**'. I was the only Legal and Patent Drafter in the Unit then. One representative granted intellectual property during my period at the university level was a patent for the anti-keeloid drug invented by dr. David Perdana Kusuma. During my activities in the IP Clinic, both at the faculty and university levels (from 1997 to 2003), I represented and assisted SMEs fostered by PT Persero Petrokimia Gresik.

From 1997 to 2003, the Ministries of Trade, Industry, and Cooperatives appointed me to become an IP mentor for SMEs in East Java Province, assisting them from preparation, application, until grants.

From 1997 to 2003 I became Secretary of Committee of Training of Trainers T For Indonesian Public University Lecturer that was held annually.

In 2003, Airlangga University's 49th *dies natalis* was celebrated to concur with the conference on the University's transformation preparation, from a state higher education institution with no incorporated legal entity to one with an incorporated legal entity. During the occasion, I made a legal-scientific oration on the importance of IP, titled, "IPR Protection as An Income Generating Asset in the Context of Higher Education Institution Independence/ *Perlindungan HKI sebagai suatu asset yang dapat menghasilkan pemasukan dalam Rangka Kemandirian Perguruan Tinggi*)

From 2006 to 2008, I was appointed the Project Leader of nationally held IP Course for Indonesian IP Lecturers by DGIP Indonesia and JICA.

In 2008, I became a full professor in law at Airlangga University, and at the age of 43, I was then the youngest full professor in Indonesia. My expertise had been intellectual property law.

From 2007 to 2010, I became Deputy Dean for Cooperation and Information Systems Division, at Law Faculty, Airlangga University. From 2007 to 2009, I was an *ad-hoc* Head of Airlangga IP Center.

In 2010, I was the Committee Leader of IPR Consultant Education, a training course to become IP agents, which was a collaboration between DGIP Indonesia and Law Faculty, Airlangga University. In 2012, I was the Chair of the establishment of Master of Intellectual Property (MIP), which was managed at the University-level.

From 2007 to 2012, I was a Deputy Head of the Industrial and Intellectual Property Division of Chamber of Commerce and Industry, Chapter: East Java.

In 2008, I was the Team Leader for the Formulation of Academic Paper on the countermeasures to minimize counterfeited drugs, a project held by the Deputy Vice President of the Republic of Indonesia and the Indonesian Anti-Counterfeiting Society (*Masyarakat Indonesia Anti-Pemalsuan/ MIAP*).



From 2010 to 2018, I was a member of the Advisory Board of IPR Teacher Association (*Asosiasi Pengajar Hak Kekayaan Intelektual/ APHKI*). From 2018 to date, I have been the Chairman of the *APHKI* Supervisory Board.

From 2012 to date, I have been appointed as Arbitrator and Mediator at the Indonesian IPR Arbitration and Mediation Agency (*Badan Arbitrase dan Mediasi Hak Kekayaan Intelektual/ BAM HKI*).

V. IP RESEARCH EXPERIENCES



1. In 1994, with a research on IPR topic with the title “ trademark Franchise Agreement for Market Development in Indonesia”, I became the first researcher to receive a ‘Young Lecturer Funding Scheme’ (IDR 10 million) from Ministry of National Education.
2. In 2008, with a research titled ‘The Potential and Protection of IPR for Traditional Plants and Medicines’, I became the first lecturer to receive Competitive Grants (IDR 100 million) from Ministry of National Education.
3. In 2013, I conducted a research on IPR Protection related to the Indonesian Traditional Martial Art in collaboration with *Nuswantoro Guardian Service* (NGS), a non-governmental, not-for-profit organization.
4. In 2015, with a research on IPR Protection related to the Information Management Society, I became the first lecturer to receive ‘Mandatory Grant Funding Scheme’ in the national level .

5. In 2017, in a research on cropping patterns in Indonesia, I collaborated with farmers to obtain a patent for the Ratun Rice Method and Management, an invention that can be freely used by East Javanese farmers. It was witnessed by through then Governor of East Java, Soekarwo. From the same research, fellow farmers obtained a patent for granules.



6. In 2018, I became the first lecturer to receive a 'Fundamental Grant Funding scheme' of Rp. 150 million and I dedicated the funds to the Formation of the Geographical Indication Protection Society (*MPIG*) for Tropical Apples in Batu City (forming the Batunesse Tropical Apple Growers Association as the *MPIG*). Furthermore, the registration of Batunesse Tropical Apple as a geographical indication (GI) was also carried out at DGIP Indonesia, Ministry of Law and Human Rights (*Kemenkumham*). attended by Mr. Freddy Harris, who then was the Director General of DGIP Indonesia.



VI. POLICY-MAKING EXPERIENCES

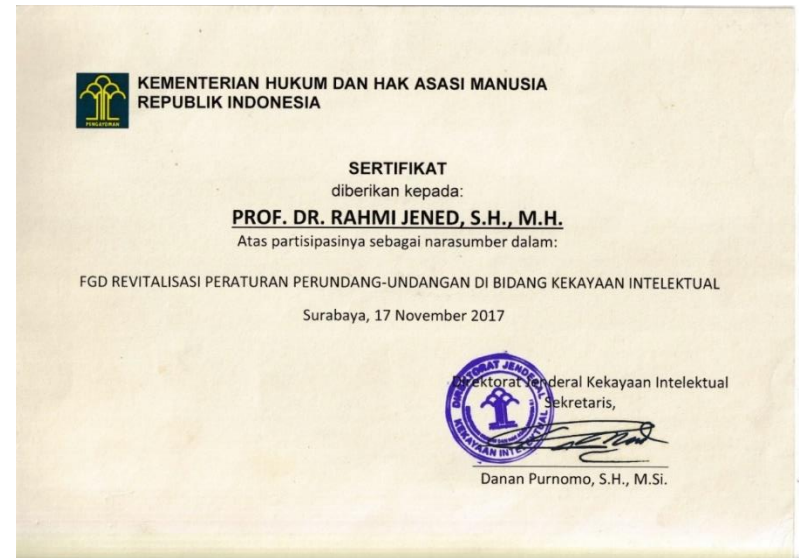
1. 2008 - Panel member of the Copyright Bill Discussion (a project of the Directorate General of Legislation Formulation (*DJPP*) and DGIP Indonesia)
2. 2009 - Panel member of Discussion on the Implementation of the Law No. 5/2007 on Investment held by Investment Coordinating Board (*BKPM*)
3. 2009 – Member of the Drafting Team for Guidelines for Implementation of Law No. 5/1999 on Prohibition of Monopolistic Practices and Unfair Business Competition held by Competition Commission (*KPPU*)
4. 2012 - Supervision on Status Development of PEGADAIAN, from A General Corporation to A Limited Liability Corporation (*Persero*)



5. 2018 – Press Conference Team on the issue of Suspension of goods resulting from intellectual property piracy/ infringement, a collaboration project between the Indonesian Supreme Court (MA) and Directorate General of Customs and Excise (DJBC)



5. In 2017 – Panel member of the Traditional Knowledge (TK) Bill Discussion held by Regional Representative Council (*DPD*) of RI
6. 2017 – Panel member of National IP Strategy, a project of WIPO and DGIP
7. 2018 - Panel member of the Industrial Design Bill Discussion, a project of National Law Development Agency (*BPHN*)
8. 2018 – Press Conference Team on the issue of Suspension of goods resulting from intellectual property piracy/ infringement, a collaboration project between the Indonesian Supreme Court (*MA*) and Directorate General of Customs and Excise (*DJBC*)



9. 2019 – resource person for DGIP- South Centre’s Regional Workshop on Access to Medicine and IP
10. From 2020 to date – resource person of Supreme Court Training Centre (Diklat MA)



11. 2021 – Presenter at WIPO Colloquium for Teachers of Intellectual Property
12. 2022 - Panel member of the Industrial Design Bill Discussion, a project by the Director General of Intellectual Property
13. 2022 - Panel member of the IP Financing Discussion, a project by the Sfinancial Supervisory Body (OJK) Ministry of Finance of RI



VI. EXPERIENCES AS EXPERT WITNESS

1. 2000 – Xyrex vs Asia Tile (the first computer program copyright protection case in Indonesia)
2. 2006 – Honda vs Garuda
3. 2013 – Three Legs Case Wen Ken Drugs Ltd Co. vs Isle of Man (an unfortunate case because the Court decided to hear and try a case where one of the parties had no legal standing)
4. 2016 – Ecco Tannery, related to taxes imposable on IP royalty in the context of a multinational company's trade secret (at the Tax Court of Finance Ministry)
5. 2017 – Avanty Case (Hotel Operator Franchise)
6. 2018 – Tupperware vs Dart Industry case (an industrial design case where Dart Industry desired to claim the protection of 'a functional aspect' regulated by the US patent law over a design industry that was registered in INDONESIA whilst IP law is territory-based)
7. 2019 – Pura Group 'Hologram Company' case
8. 2020 – Several IP cases of PT PEGADAIAN

Awards

- 1997, IASTP Best Participant
- 2006, Airlangga Best Lecturer
- 2007, Airlangga Best Lecturer
- 2007, Airlangga Best Graduate
- 2008, Youngest Full Professor in Indonesia
- 2010, '100 High Achieving Indonesian Female Researchers' an award collaboratively granted by UNESCO and Ministry of Women Empowerment And Child Protection
- 2019, Best Participant at Jimly School's Mediation and Conciliator Certification Training (CMC)
- 2019, Best Participant at Jimly School's Contract Drafter Training (CCD)
- 2020, Best Participant at Special Education for Advocate Profession (PKPA)
- From 1990 to date, various scholarships recipient



Publications

1997 Copyright and TRIPS Agreement monograph

1998 Trademark and TRIPS Agreement monograph

2006 IP Exclusive Rights monograph

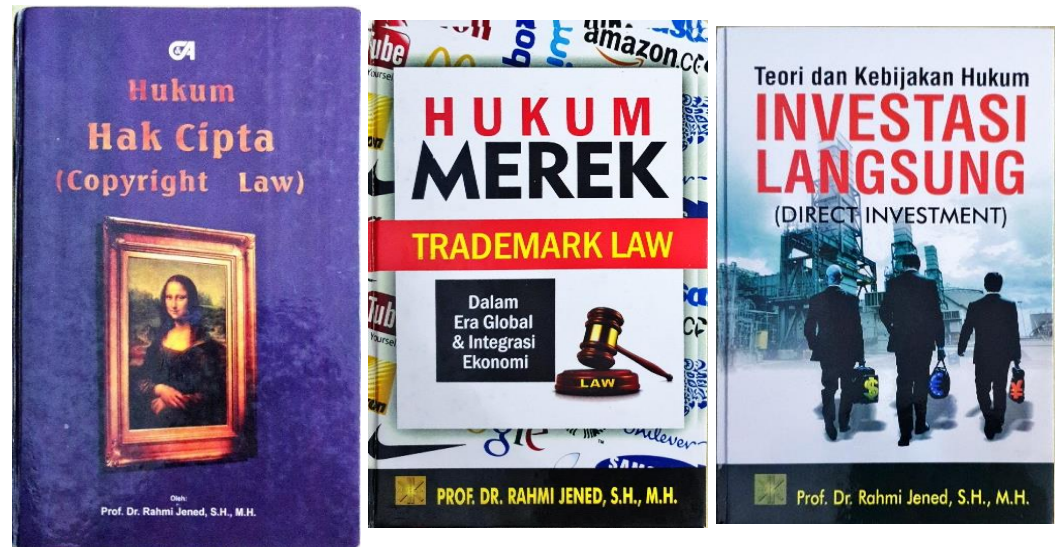


2013 IP and Competition Law monograph

2014 Copyright Law monograph

2015 Trademark Law monograph

2016 Direct Investment monograph



2024 (upcoming Patent monograph)

VII. CURRENT PROBLEMS AND POSSIBLE IMPROVEMENT MEASURES

- Legal substance
- Legal structure
- Legal culture

LEGAL SUBSTANCE

- Several IPR laws and regulations need to be revised by those who are in control of the formation of laws and regulations, so that their contents clearly set AND limit the rights of citizens;
- Clarity of legal terminology: interested parties, third parties, interested parties;
- The problem of a lawsuit if there is a foreign element, is it the authority of the Commercial Court where the Defendant's or the one in Central Jakarta?
- Substantive requirements as the nature of an intellectual creation need to be stated in the rule of law;
- It is necessary to revitalize the penal restorative justice mediation in the IPR Law so that it is not misused;
- It is necessary to establish a special Law on the Unfair Competition Prevention Law .

LEGAL STRUCTURE

- The need for clarification in each governmental institution about which among their divisions having the duties and functions pertaining to IP;
- The need for clarification on the structure of law enforcement and their respective authorities, for example Civil Servant Investigators (*Penyidik Pegawai Negeri Sipil/ PPNS*) can not act beyond their capacity/ authority because by nature they are only assistants to the Republic's Police, they are NOT a part of the Police;
- The need for clarification on the structure of the Commercial Court and Competition Commission when it comes to their interfacing competence relating to IP cases that are potentially anti-competitive in nature;
- The need for clarification on IPR financing institutions and other *legal* nonbank financial institutions

LEGAL CULTURE

- IPR needs to be taught beginning in elementary education to higher education level, not only at a faculty of law in the university
- Coordination and integration of various ministries and institutions need to be made more efficient and effective so that research funding hits the right targets and never overlaps, that way, Indonesia will have more diverse and competitive researches;
- The need for increased understanding of bank and nonbank financial institutions, and tax-related agencies about the existence and the importance of IP as an intangible asset with all its consequences;
- The need to increase comprehensive IP understanding, especially, among the enforcement institutions

***THANK YOU FOR
YOUR KIND ATTENTION***

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