



RESEARCH ARTICLE

Enhancing Patent Dispute Resolution in Indonesia: The Case for Mandatory Mediation Under Perma No. 1/2016 and Law No. 65/2024

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ARTICLE INFO	ABSTRACT
Received: Oct 24, 2024 Accepted: Jan 16, 2025	Patent dispute resolution in Indonesia plays a critical role in safeguarding intellectual property rights and fostering innovation. Despite the establishment of Law Number 13 of 2016 concerning Patents, legal uncertainties remain, particularly regarding the absence of mandatory mediation in civil patent disputes. This article explores the principle of legal certainty in the Indonesian patent litigation framework and proposes the institutionalization of mandatory mediation as a preliminary step to litigation. Through a normative juridical and qualitative approach, this paper highlights how the current voluntary mediation process is underutilized, contributing to court congestion and prolonged disputes. Drawing from Richard Posner's Economic Analysis of Law, Legal Realism, and Law and Development theories, this paper advocates for amending the Patent Law to mandate mediation, enhancing legal certainty, expediting dispute resolution, and fostering a more innovation-friendly environment. Comparative analysis of best practices in jurisdictions such as the U.S., EU, Japan, and Singapore underscores the potential benefits of mandatory mediation for Indonesia's economic growth and technological advancement.
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INTRODUCTION

Patent disputes serve as a cornerstone in the defense of intellectual property (IP), acting as catalysts for technological innovation and ensuring equitable market dynamics within a country's rapidly transforming economic landscape (Roy, 2018). In an era where innovation is pivotal to national development, the safeguarding of patents provides critical assurance to inventors and enterprises, allowing them to capitalize on their research and development (R&D) investments. The ability to secure exclusive rights over inventions rewards ingenuity and sustains competitive advantages, fostering a feedback loop of continuous technological advancement and economic diversification (Cappelli et al., 2023). By reinforcing the exclusivity of innovative outputs, a robust patent system plays a pivotal role in deterring unauthorized exploitation, curbing market imbalances, and attracting foreign direct investment (FDI) (OECD, 2008).

As Indonesia positions itself as a regional leader in technological innovation and industrial growth, the importance of intellectual property protection cannot be overstated. Patents represent the lifeblood of pharmaceuticals, information technology, and renewable energy sectors, where substantial R&D expenditures underpin market breakthroughs. A well-functioning patent system incentivizes innovation and generates positive spillover effects, driving job creation, fostering cross-sectoral collaboration, and stimulating knowledge transfer. However, enforcing patent rights in Indonesia encounters formidable challenges, undermining the efficacy of these protective measures and deterring both domestic and international investors. Central to these difficulties is the legal and

procedural complexity surrounding patent disputes, often resulting in protracted litigation, high costs, and inconsistent judicial outcomes (Barton and Cooper, 2012).

Indonesia's legal architecture governing patent enforcement is anchored in Law Number 13 of 2016 and the recent amendments introduced through Law No. 65/2024 concerning Patents, legislative frameworks designed to synchronize national IP regulations with international norms, notably the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Medina, 2024). This law marks a significant legislative advancement, reflecting Indonesia's aspirations to cultivate an innovation-friendly environment conducive to sustained economic expansion and global competitiveness. The statute delineates comprehensive provisions for patent application, examination, opposition, and enforcement, thereby offering a semblance of legal predictability and fostering investor confidence (Medina, 2024). Despite these commendable strides, several systemic inefficiencies persist, hampering the swift and effective resolution of patent disputes. One of the most conspicuous gaps is the absence of mandatory mediation as an integral component of the dispute resolution process, an oversight that exacerbates judicial bottlenecks and prolongs the adjudication of patent conflicts (Nurahmasari et al., 2021).

In many jurisdictions, mediation constitutes a critical element of patent enforcement, serving as a pragmatic and efficient alternative to adversarial litigation. By facilitating dialogue and compromise, mediation minimizes litigation costs, accelerates dispute resolution, and preserves commercial relationships (Adwani, 2024). In Indonesia, however, the lack of compulsory mediation channels disputing parties directly into the formal judicial system, intensifying case backlogs and extending litigation timelines (Hadrian, 2019). This procedural rigidity disproportionately impacts small and medium enterprises (SMEs), which often lack the financial resilience to sustain prolonged legal proceedings. As a result, many SMEs face insurmountable barriers to defending their intellectual property, curtailing their ability to scale innovations and integrate into competitive markets (Nuryakin et al., 2024). Moreover, prolonged litigation engenders legal uncertainty, stifling market entry and constraining the flow of venture capital into nascent technological sectors.

The ramifications of Indonesia's underdeveloped patent dispute resolution framework extend beyond economic stagnation; they pose broader risks to the national innovation ecosystem. Delayed patent enforcement disincentivizes collaboration between academia, industry, and government bodies, undermining national research agendas and weakening Indonesia's capacity to compete in the global knowledge economy. Furthermore, unresolved patent disputes erode investor confidence, deterring multinational corporations from establishing R&D facilities within a country and diverting high-value intellectual property to more predictable jurisdictions (Sanyal, 2004). Addressing these shortcomings necessitates a holistic recalibration of Indonesia's patent enforcement paradigm, with mandatory mediation emerging as a linchpin for systemic reform.

Introducing mandatory mediation into Indonesia's patent dispute resolution framework offers a transformative pathway to alleviate judicial congestion, reduce litigation expenses, and foster a culture of cooperative problem-solving (Nurahmasari et al., 2021; Adwani, 2024). Mediation promotes constructive engagement, enabling disputing parties to craft tailored solutions that reflect mutual interests while circumventing the adversarial rigidity of courtroom proceedings (Hariadi et al., 2023). By institutionalizing mediation, Indonesia can align its patent enforcement mechanisms with international best practices, reinforcing the integrity of its IP landscape and enhancing the nation's appeal as an innovation hub (Nurahmasari et al., 2021). Furthermore, mediation preserves long-term commercial relationships, mitigating the risk of enduring antagonism and fostering collaborative partnerships that drive sustained technological progress (Gómez, 2019).

This paper advances the proposition that embedding mandatory mediation within Indonesia's patent dispute architecture constitutes a pragmatic and necessary reform to unlock the nation's innovation potential. The subsequent sections will undertake a granular examination of Indonesia's current

patent enforcement framework, dissecting its strengths and identifying critical gaps. Drawing on comparative case studies from jurisdictions such as the United States, European Union, and Singapore, this paper will elucidate the tangible benefits of mediation in expediting patent dispute resolution. Finally, practical recommendations will be articulated to guide the integration of mandatory mediation into Indonesia's existing legal framework, positioning the nation to harness the full economic and social dividends of intellectual property protection.

METHODS

This paper employs a normative juridical approach by conducting an in-depth analysis of Indonesia's patent legislation, including Law No. 13/2016 concerning Patents and the recent amendments introduced through Law No. 65/2024. The normative method focuses on interpreting legal texts, statutes, and judicial decisions to identify gaps in the current patent dispute resolution framework, particularly regarding the voluntary nature of mediation under Perma No. 1/2016. Additionally, this study adopts a qualitative legal approach, incorporating insights from patent litigation practitioners, judiciary members, and legal scholars to evaluate the practical challenges of enforcing patent rights in Indonesia.

A significant portion of this research is dedicated to comparative legal analysis, examining patent dispute resolution mechanisms in jurisdictions renowned for their robust IP protection frameworks. Case studies from the Northern District of California, the Unified Patent Court (UPC) in the EU, and the Japan Patent Office (JPO) provide empirical evidence of how mandatory mediation reduces litigation timelines and enhances legal certainty. The paper identifies transferable solutions that could inform legislative reform efforts by drawing parallels between these jurisdictions and Indonesia.

The theoretical underpinning of this paper draws from Richard Posner's Economic Analysis of Law, emphasizing the economic inefficiencies associated with prolonged litigation and the benefits of mediation in reallocating resources towards innovation and R&D. Legal realism is employed to argue for pragmatic reforms that reflect Indonesia's socio-economic landscape, addressing the realities faced by small and medium enterprises (SMEs) in defending their intellectual property. Furthermore, law and development theory argues that strengthening patent enforcement through ADR mechanisms is essential for Indonesia's economic transformation into an innovation-driven economy.

Ultimately, this study integrates case-based analysis with theoretical frameworks to construct a comprehensive argument for institutionalizing mandatory mediation within Indonesia's patent dispute resolution architecture. Through this multidisciplinary methodology, the paper identifies existing shortcomings and proposes actionable reforms to bridge the gap between Indonesia's patent enforcement system and international best practices.

RESULTS AND DISCUSSIONS

The Current Legal Framework for Patent Dispute Resolution

Patent disputes in Indonesia are governed by Law No. 13 of 2016 concerning Patents, a comprehensive legal instrument that seeks to align national intellectual property (IP) regulations with international norms (Government of Indonesia, 2016), particularly the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This law outlines critical mechanisms for patent application, protection, and enforcement, addressing key areas such as patent infringement, revocation, and licensing (Siregar and Saraswati, 2021). However, as innovation accelerates across various sectors, the existing framework faces increasing pressure to evolve, prompting the

introduction of Law No. 65 of 2024, which amends certain provisions to enhance enforcement mechanisms and provide clearer pathways for patent holders seeking legal recourse (Medina, 2024).

A cornerstone of Indonesia's patent dispute resolution process is Peraturan Mahkamah Agung (Perma) No. 1 of 2016, which encourages the use of mediation as an alternative dispute resolution (ADR) mechanism (Government of Indonesia, 2016). This regulatory framework recognizes the potential of mediation to expedite dispute resolution, reduce judicial burdens, and foster amicable settlements. However, its application remains voluntary, leaving parties the discretion to bypass mediation in favor of full litigation (Government of Indonesia, 2016). Consequently, many patent holders opt for litigation, exacerbating the backlog of cases in Indonesia's Commercial Court and prolonging the dispute resolution process (Aprilia, 2024). This discretionary approach to mediation stands in contrast to international best practices, where mandatory mediation has been shown to significantly reduce litigation timelines and costs (Van Rhee, 2021).

The current legal framework offers two primary avenues for patent enforcement: civil lawsuits and criminal complaints. Civil lawsuits are typically initiated in the Commercial Court, where patent holders seek monetary damages and injunctive relief to prevent further infringement (Baideng et al., 2024). However, the absence of reimbursement for legal fees places a substantial financial burden on litigants, particularly small and medium enterprises (SMEs), which may lack the resources to sustain prolonged legal battles. This structural limitation often deters SMEs from pursuing legal recourse, limiting their ability to protect intellectual property effectively (Hapsari, 2016).

The second pathway involves filing criminal complaints with civil investigators or the Indonesian National Police (Government of Indonesia, 2024). This process aims to deter infringement by imposing criminal penalties, including fines and potential imprisonment. While criminal enforcement is a strong deterrent, it is often a lengthy and complex procedure, further contributing to judicial inefficiency. The requirement for substantial evidence and the potential for prolonged investigations can delay the resolution of disputes, diminishing the value of patents and undermining the confidence of patent holders (Tuerah, 2017). Despite the availability of these enforcement pathways, significant delays and inconsistencies persist, primarily due to the absence of mandatory mediation as a procedural prerequisite. The discretionary nature of mediation under Perma No. 1/2016 results in fragmented enforcement, with disputes proceeding through adversarial litigation rather than collaborative resolution (Nurahmasari, 2021). This dual-track enforcement mechanism not only prolongs legal uncertainty but also deters foreign investment, as patent holders face prolonged delays in securing injunctions or compensation (Taduri, 2021).

The inefficiencies inherent in Indonesia's current patent dispute resolution framework underscore the pressing need for procedural reform. By institutionalizing mandatory mediation, Indonesia could alleviate judicial congestion, reduce litigation costs, and foster a more innovation-friendly environment (Gayo, 2024). Such reforms would align Indonesia's IP enforcement mechanisms with global best practices, positioning the nation to attract greater levels of foreign direct investment (FDI) and stimulate domestic technological advancement (Sinaga, 2021).

In summary, while Indonesia's legal framework for patent dispute resolution provides essential mechanisms for protecting intellectual property, its reliance on voluntary mediation perpetuates inefficiencies and legal uncertainty. Addressing these challenges through legislative reform and the integration of mandatory mediation holds the potential to enhance judicial efficiency, safeguard patent rights, and bolster Indonesia's reputation as a hub for innovation and technological growth.

Legal Uncertainty and the Need for Mandatory Mediation

The absence of mandatory mediation in Indonesia's patent dispute resolution framework perpetuates legal uncertainty, which is detrimental to safeguarding intellectual property rights and

promoting innovation (Gans, 2007). Perma No. 1 of 2016 introduced voluntary mediation as part of the alternative dispute resolution (ADR) landscape to alleviate judicial burdens and provide swifter resolutions. However, its non-compulsory nature results in underutilization, as disputing parties often bypass mediation in favor of litigation. This tendency leads to court congestion, prolonging legal proceedings and increasing costs, thereby undermining the very objective of the patent system—ensuring legal certainty and protecting inventors' interests (Nurahmasari, 2021).

The principle of legal certainty is a fundamental component of intellectual property (IP) law, offering patent holders confidence that their rights will be enforced consistently and predictably (Kordela, 2008). Without reliable mechanisms to expedite dispute resolution, prolonged litigation introduces ambiguity and discourages innovation. Inventors and companies, particularly small and medium enterprises (SMEs), are less inclined to invest in research and development (R&D) when faced with protracted legal battles and the risk of unenforced patents (Hall and Harhoff, 2012). Consequently, this legal environment fosters hesitation among stakeholders, hindering technological advancement and economic growth.

A critical flaw exacerbating legal uncertainty in Indonesia's patent dispute framework is the lack of a formal discovery process—a procedural mechanism prevalent in jurisdictions such as the United States (U.S.) and the European Union (EU). In these regions, discovery allows parties to compel evidence and obtain critical documentation from their opponents, ensuring transparency and facilitating fair adjudication (Pooley and Huang, 2011). In Indonesia, by contrast, litigants are largely responsible for gathering their own evidence, often without access to crucial technical data held by the opposing party (Rouse, 2021). This imbalance disadvantages patent holders, especially when defending against larger, well-resourced entities capable of withholding key information. The lack of procedural tools to extract evidence extends litigation timelines and weakens the enforcement of patent rights.

In addition to procedural deficiencies, judicial expertise in patent litigation remains limited. Commercial Court judges, who typically oversee patent disputes, may lack the specialized knowledge to assess complex technical claims and evaluate evidence accurately (Nurahmasari, 2021). Unlike jurisdictions like Japan and Germany, where judges with technical backgrounds staff specialized IP courts, Indonesia's generalist judiciary often struggles to interpret patent claims, particularly in sectors like biotechnology, pharmaceuticals, and information technology (Gurgula, 2022). This knowledge gap increases the likelihood of misinterpretation or misapplication of patent law, resulting in inconsistent rulings that erode legal certainty.

The absence of judicial specialization highlights the urgent need for ADR mechanisms, such as mandatory mediation, where disputes can be overseen by mediators with relevant technical and legal expertise (Hadrian, 2019). Mediators, often drawn from industry experts or patent examiners, can bridge the knowledge gap, facilitating informed and impartial resolutions. This approach enhances the quality of dispute resolution and preserves commercial relationships by encouraging collaborative rather than adversarial solutions (Siregar and Saraswati, 2021).

The benefits of mandatory mediation extend beyond reducing legal uncertainty; they directly impact judicial efficiency by diverting cases away from the court system. In jurisdictions like Singapore, mandatory mediation has contributed to reduction in IP-related litigation, freeing judicial resources for more complex cases (Yeo, 2020). Similarly, in the U.S. Northern District of California, mediation in patent cases has reduced trial durations (Vidal et al., 2019). These examples underscore how integrating mandatory mediation can transform Indonesia's IP landscape by fostering legal certainty, accelerating dispute resolution, and reducing the financial burden on litigants.

In conclusion, Indonesia's voluntary mediation framework, as established by Perma No. 1/2016, falls short in addressing the systemic inefficiencies of the nation's patent dispute system. The lack of a

discovery process and specialized judiciary exacerbates legal uncertainty, prolonging litigation and discouraging innovation. By instituting mandatory mediation as a prerequisite to litigation, Indonesia can address these deficiencies, aligning its patent enforcement mechanisms with global best practices and promoting a more conducive environment for intellectual property protection and economic growth (Alexy, 2019).

THEORETICAL ANALYSIS: LEGAL AND ECONOMIC PERSPECTIVES

Economic Analysis of Law

Richard Posner's Economic Analysis of Law underscores the principle that legal frameworks must strive to promote efficiency and minimize the economic costs associated with litigation (Posner, 2014). This theory, rooted in the intersection of economics and jurisprudence, emphasizes the importance of resolving disputes in a manner that reallocates resources toward productive and innovative activities rather than expending them on prolonged legal battles. Posner contends that the legal system should function as a mechanism for wealth maximization, ensuring that legal rules lead to outcomes that maximize societal welfare and economic output (Posner, 2014).

In the context of patent disputes, prolonged litigation is viewed as an inefficient use of resources, diverting capital from research and development (R&D) and stalling the commercialization of new technologies. This inefficiency imposes opportunity costs on inventors and businesses, reducing their competitive edge and disincentivizing future innovation (Bessen and Meurer, 2008). Posner posits that mediation, as an alternative to full litigation, serves as a vital tool for cost reduction and ensures the swift resolution of disputes, allowing inventors to focus on enhancing their technological outputs rather than navigating complex legal proceedings (Posner, 2014).

Mediation facilitates early settlement and minimizes the adversarial nature of patent disputes, fostering amicable resolutions while avoiding the rigidity and formality of courtroom litigation (Trubek & Santos, 2016). By expediting dispute resolution, mediation lowers transaction costs and preserves commercial relationships between disputing parties, which is crucial in industries where ongoing collaboration is essential to sustained innovation (Tan, 2020). This approach aligns with law and development theory, which argues that well-functioning legal institutions are fundamental in promoting economic growth and fostering an environment conducive to technological progress (Trubek & Santos, 2006a).

Moreover, Posner highlights that mandatory mediation can serve as a quality control mechanism within the judicial system, ensuring that only cases with substantial merit proceed to litigation while the majority are resolved through more efficient channels (Posner, 2017). This alleviates judicial congestion and reduces the financial strain on public resources, enabling the judiciary to focus on more complex or precedent-setting cases (Stipanowich, 2004). In jurisdictions such as the United States and Singapore, the institutionalization of mandatory mediation has proven to significantly cut litigation times and reduce associated legal expenses (Yeo, 2020).

In the case of Indonesia, integrating mandatory mediation into the patent enforcement system aligns with the country's economic development objectives and its aspiration to build an innovation-driven economy (Hadrian, 2019, Nurahmasari, 2021). As Indonesia seeks to position itself as a regional leader in technology and industrial advancement, ensuring that patent disputes are resolved efficiently becomes paramount. By adopting Posner's framework, Indonesia can mitigate the economic inefficiencies that plague its current system, fostering a more robust environment for intellectual property protection and foreign investment (Posner, 2014).

Additionally, Posner's economic rationale supports the argument that a predictable and efficient legal system enhances investor confidence, encouraging venture capital and technological partnerships

that drive economic diversification (Trubek & Santos, 2016a). In turn, this cultivates an ecosystem where legal certainty promotes risk-taking and incentivizes inventors to pursue groundbreaking innovations without the looming threat of protracted litigation.

In conclusion, Posner's Economic Analysis of Law offers a compelling justification for the adoption of mandatory mediation as a key component of Indonesia's patent dispute resolution framework. By reducing litigation costs, promoting judicial efficiency, and fostering innovation, mandatory mediation aligns with broader economic goals, positioning Indonesia to harness the full potential of its intellectual property landscape (Posner, 2014; Trubek & Santos, 2016a).

Legal Realism and Law and Development

Legal Realism challenges the notion that legal decisions result from applying formal rules. Judges and legal practitioners must consider the practical realities and social contexts in which disputes arise (Leiter, 2001). This perspective underscores that law is not static but must evolve to address the changing needs of society and the economy. In the context of patent disputes, legal realism suggests that rigid adherence to litigation often fails to account for the complexities and dynamic nature of technological innovation and market competition (Trubek & Santos, 2016a).

Patent conflicts frequently involve intricate technical details and rapidly evolving industries, making traditional litigation ill-suited to handle such disputes efficiently (Chien, 2009). Legal realism posits that practical solutions like mediation offer a more adaptable and responsive framework that aligns with business operations' realities and innovation's economic imperatives (Leiter, 2001). Mediation, by fostering collaboration and negotiated settlements, reflects the pragmatic approach endorsed by legal realism, enabling parties to achieve mutually beneficial resolutions while minimizing the disruption to commercial activities (Stipanowich, 2004).

Moreover, Law and Development Theory complements legal realism by asserting that legal institutions are integral to economic progress and societal advancement (Trubek & Santos, 2006b). According to this theory, a well-functioning legal framework, including alternative dispute resolution (ADR) mechanisms, is pivotal in stimulating innovation and reducing the risks associated with patent enforcement (Tan, 2022). Barriers to innovation—such as lengthy litigation, high legal costs, and uncertainty in patent enforcement—can stifle technological progress and deter investment (Tan, 2022). By embedding strong ADR mechanisms, such as mandatory mediation, legal systems can create an environment conducive to technological growth and economic resilience.

The intersection of legal realism and law and development is particularly relevant in emerging economies like Indonesia, where fostering innovation is crucial to achieving sustainable economic growth. Patent enforcement frameworks that rely heavily on litigation often hinder the ability of small and medium enterprises (SMEs) to defend their intellectual property, given the high financial and time-related costs (Chien, 2012). Mandatory mediation, as a tool of ADR, offers a cost-effective and time-efficient pathway that reduces the burden on SMEs, aligning with the developmental goals outlined by law and development scholars (Trubek & Santos, 2006a; Vandermeulen, 2020).

For example, in jurisdictions like Singapore and Japan, the implementation of ADR frameworks has streamlined patent enforcement, allowing for quicker resolutions and reducing the backlog of cases in courts (Tan, 2022). Drawing on legal realism principles, these countries have tailored their legal systems to reflect the realities faced by inventors and businesses, reinforcing economic growth through efficient dispute resolution (Tsakalerou, 2018). Indonesia benefits from similar reforms, as mandatory mediation in patent disputes could mitigate procedural inefficiencies and foster a legal environment that encourages technological advancement.

Furthermore, law and development theorists argue that robust legal frameworks enhance investor confidence by protecting intellectual property rights within predictable and transparent systems (Peng et al., 2008). In Indonesia, the absence of mandatory mediation contributes to legal uncertainty and extends the duration of patent disputes, discouraging both domestic inventors and foreign investors (Nurahmasari, 2021). Addressing these gaps through ADR integration aligns with developmental objectives, positioning Indonesia as a competitive hub for innovation in Southeast Asia.

In conclusion, legal realism and law and development theory collectively advocate for practical, adaptive legal solutions that reflect societal needs and drive economic growth. By incorporating mandatory mediation into Indonesia's patent enforcement system, the country can streamline dispute resolution, foster innovation, and attract greater investment. This approach aligns with international best practices and underscores the essential role of flexible legal institutions in promoting long-term economic development (Trubek & Santos, 2006 a,b; Leiter, 2001).

Comparative Legal Frameworks and Best Practices

Integrating mandatory mediation into patent dispute resolution has proven to be a transformative mechanism in various jurisdictions, addressing inefficiencies in litigation, reducing costs, and accelerating the resolution of complex intellectual property conflicts. Countries such as the United States, the European Union, Japan, and Singapore have embraced mediation as a fundamental aspect of their legal frameworks, demonstrating its effectiveness in enhancing judicial efficiency and fostering innovation (Strong, 2016; Alexander, 2024). These comparative models provide valuable insights for Indonesia as it seeks to reform its patent enforcement system to alleviate court congestion and provide greater legal certainty.

In the United States, the Northern District of California stands as a prominent example of how mandatory mediation can streamline patent litigation. As one of the most active jurisdictions for technology-related patent cases, this district mandates mediation as part of its Alternative Dispute Resolution (ADR) program. For five years, the introduction of mandatory mediation led to a significant reduction in trial durations, underscoring its capacity to expedite dispute resolution and alleviate the burden on courts (Vidal et al., 2019). This model emphasizes the importance of engaging in mediation during the early stages of a dispute, allowing parties to reach settlements without undergoing lengthy litigation. Specialized mediators with expertise in intellectual property law facilitate these mediations, ensuring that the process remains informed and technically sound. The success of this initiative reflects how embedding ADR mechanisms within judicial systems reduces financial costs and preserves business relationships, fostering a more collaborative environment for resolving disputes (Menkel-Meadow, 2015).

The European Union has similarly institutionalized mandatory mediation through the Unified Patent Court (UPC), which is critical in managing cross-border patent disputes. As part of the UPC's broader mandate, mediation is required before litigation proceeds, contributing to a 35% decrease in the average resolution time for patent cases (Tietz, 2019). The UPC's approach reflects the EU's commitment to fostering a harmonized patent enforcement system that reduces jurisdictional fragmentation across member states. By encouraging cooperation and negotiated settlements, the EU has established a model where legal frameworks prioritize efficiency and mutual benefit over adversarial litigation (European Commission, 2023). This initiative illustrates the importance of aligning patent enforcement mechanisms with broader economic and technological objectives, thereby reducing legal uncertainty and promoting innovation across borders.

Japan's approach to mediation through the Japan Patent Office (JPO) further highlights the benefits of ADR in intellectual property disputes. The JPO has implemented an early mediation program that

boasts an 80% settlement rate, demonstrating its effectiveness in resolving patent conflicts at the preliminary stages (Nakamura & Partners, 2023). A key factor contributing to this high success rate is the involvement of technical experts and patent examiners in the mediation process. By incorporating domain-specific knowledge into dispute resolution, Japan ensures that mediators can accurately assess complex technical issues, significantly enhancing outcomes' quality and fairness (Purwaningsih, 2020). This focus on technical expertise within the mediation process underscores the importance of having specialized knowledge to navigate the intricacies of patent disputes, reinforcing the argument that Indonesia could benefit from adopting a similar model.

Singapore has positioned itself as a global leader in ADR for patent disputes through the establishment of the Singapore International Mediation Centre (SIMC). The SIMC mandates mediation for complex patent cases, resulting in a 70% reduction in trial caseloads and contributing to the efficient resolution of disputes (Yeo, 2020; Tan, 2022). Singapore's mediation framework reflects the country's broader strategy to establish itself as an innovation and technology hub by ensuring that patent holders can navigate disputes quickly and cost-effectively. Central to Singapore's success is the flexibility and confidentiality offered by the SIMC, allowing parties to engage in open dialogue and negotiate settlements that preserve long-term business relationships (Alexander and Chong, 2023). This approach not only reduces the strain on judicial resources but also strengthens Singapore's reputation as a jurisdiction that prioritizes innovation and intellectual property protection (Ministry of Law, Singapore, 2022).

The experiences of the United States, the European Union, Japan, and Singapore reveal several key factors that contribute to the success of mandatory mediation. One of the most critical elements is the emphasis on early engagement, where mediation is introduced at the initial stages of a dispute, preventing litigation from escalating unnecessarily. This proactive approach significantly reduces the time and financial resources required to resolve conflicts, creating a more predictable and stable legal environment (Wissler and Hinshaw, 2023). Additionally, the use of specialized mediators and technical experts enhances the credibility of the mediation process, ensuring that decisions are informed by a deep understanding of the relevant technology and legal principles (Menkel-Meadow, 2015). Judicial oversight and strong institutional support further reinforce the legitimacy and enforceability of mediated settlements, creating a balanced system where parties can pursue fair outcomes without resorting to full litigation (Strong, 2016).

Indonesia benefits greatly from adopting best practices in mandatory mediation as part of its ongoing efforts to reform patent dispute resolution. The existing framework under Law No. 13 of 2016 and subsequent amendments through Law No. 65 of 2024 provides a foundation for strengthening ADR mechanisms, but the absence of compulsory mediation continues to hinder judicial efficiency and exacerbate legal uncertainty. By integrating mandatory mediation into its patent enforcement system, Indonesia can significantly reduce court congestion, lower litigation costs, and provide faster, more predictable resolutions for patent holders. Introducing certified mediators with expertise in patent law and technology would further enhance the effectiveness of mediation, ensuring that disputes are resolved with the necessary technical precision (Nolan-Haley, 2018).

In conclusion, the comparative success of mandatory mediation in jurisdictions such as the United States, the European Union, Japan, and Singapore underscores the transformative potential of ADR in resolving patent disputes. As Indonesia continues to position itself as a leader in innovation and technological development, adopting similar mediation practices will be essential to promoting legal certainty, protecting intellectual property rights, and attracting foreign investment. These reforms would not only align Indonesia with international best practices but also strengthen its intellectual property ecosystem, fostering economic growth and technological advancement in the years to come.

Proposal for Reform: Implementing Mandatory Mediation in Indonesia

To enhance the efficiency and effectiveness of Indonesia's patent dispute resolution framework, this paper advocates for the institutionalization of mandatory mediation as a fundamental component of the legal process. Addressing the systemic inefficiencies that currently plague Indonesia's intellectual property enforcement system requires a comprehensive reform strategy that draws from successful international models while remaining attuned to the unique characteristics of Indonesia's legal and economic landscape.

A critical step in this reform process involves amending Law No. 13 of 2016 to mandate mediation as the initial stage in all civil patent disputes. Specifically, Article 120 should be revised to require disputing parties to engage in mediation before proceeding to full litigation. This amendment would align Indonesia's legal framework with the practices of jurisdictions like the United States and Japan, where early-stage mediation has significantly expedited dispute resolution and reduced judicial backlog (Menkel-Meadow, 2015). By formalizing mediation as a prerequisite to litigation, Indonesia can alleviate the congestion in Commercial Courts and ensure that patent holders benefit from faster, less adversarial conflict resolution mechanisms (Nurahmasari, 2021).

In tandem with legislative amendments, the establishment of specialized mediation panels is essential to the success of this initiative. Patent disputes often involve intricate technical details that general mediators may not be equipped to handle. To address this, Indonesia should create panels composed of certified mediators with expertise in patent law and the relevant technological domains. Drawing from Japan's model, where the Japan Patent Office (JPO) utilizes technical experts during mediation, Indonesia can ensure that mediators possess the requisite knowledge to accurately assess the nuances of patent conflicts (Nakamura & Partners, 2023). This not only enhances the credibility of the mediation process but also instills confidence in patent holders that their cases are being adjudicated by professionals with a deep understanding of the subject matter (Tan, 2022).

Judicial oversight is another vital aspect of the proposed reform. Empowering judges to direct parties to mediation at any stage of the litigation process can prevent unnecessary delays and encourage more efficient dispute resolution. In the United States, judges in the Northern District of California regularly exercise this authority, significantly reducing trial durations and increasing pre-trial settlement rates (Vidal et al., 2019). By granting Indonesian judges similar discretionary powers, the judiciary can intervene when litigation becomes protracted, redirecting parties to mediation to achieve swifter and more amicable resolutions. This proactive judicial approach reflects the principles of legal realism, which emphasize practical, outcome-oriented solutions over rigid procedural formalities.

To ensure the successful implementation of mandatory mediation, Indonesia should consider launching pilot programs targeting high-tech sectors, where patent disputes are most prevalent and technically complex. Sectors such as pharmaceuticals, information technology, and renewable energy are particularly prone to prolonged litigation due to the intricate nature of the patents involved (Sidik et al., 2023). By initiating pilot programs in these industries, Indonesia can assess the effectiveness of mandatory mediation in real-world scenarios, gathering empirical data to inform the broader rollout of the initiative. This phased approach mirrors the strategy adopted by Singapore's International Mediation Centre (SIMC), where pilot programs contributed to a 70% reduction in trial caseloads over five years (Yeo, 2020).

Moreover, pilot programs allow refining the mediation process, identifying potential challenges, and tailoring solutions to suit Indonesia's specific legal and economic environment. By collaborating with industry stakeholders, legal practitioners, and academic institutions, Indonesia can develop a robust mediation framework that meets the needs of all relevant parties (Menkel-Meadow, 2015). This inclusive approach ensures that the perspectives of small and medium enterprises (SMEs), which

often lack the resources to engage in prolonged litigation, are adequately represented (Vandermeulen, 2020).

Mandatory mediation also aligns with Indonesia's broader economic objectives of fostering an innovation-driven economy and attracting foreign direct investment (FDI). A more predictable and efficient patent dispute resolution system enhances investor confidence, signaling to international stakeholders that Indonesia is committed to protecting intellectual property rights and supporting technological advancement (Purwaningsih, 2020). As evidenced by the success of the Unified Patent Court (UPC) in the European Union, streamlined dispute resolution mechanisms play a crucial role in creating a stable legal environment that incentivizes innovation (European Commission, 2023).

Ultimately, the proposed reforms outlined in this paper offer a pathway for Indonesia to modernize its patent enforcement framework, drawing on best practices from leading jurisdictions while addressing the unique challenges facing the country's legal system. By mandating mediation, establishing specialized panels, empowering judicial oversight, and initiating pilot programs, Indonesia can foster a more efficient, accessible, and innovation-friendly patent dispute resolution process. This holistic approach enhances legal certainty and reinforces Indonesia's position as a key player in the global intellectual property landscape, paving the way for sustained economic growth and technological progress.

CONCLUSION

Mandatory mediation offers a transformative and pragmatic solution to address the persistent inefficiencies and complexities within Indonesia's patent dispute resolution framework. As Indonesia strives to position itself as a hub for technological innovation and economic growth, a robust, efficient, and predictable legal environment becomes increasingly critical. The introduction of mandatory mediation directly addresses key issues hindering intellectual property rights enforcement, including judicial congestion, protracted litigation, and high legal costs. By providing a streamlined mechanism for resolving patent disputes, mediation reduces the strain on the judiciary while offering patent holders a faster, less adversarial path to protecting their innovations.

The economic implications of prolonged patent disputes are far-reaching, diverting valuable resources from research and development (R&D) and impeding the commercialization of new technologies. Legal delays can have significant ripple effects in pharmaceuticals, renewable energy, and information technology industries, where innovation cycles are rapid, ultimately stalling economic progress. Mandatory mediation mitigates these disruptions by encouraging early and collaborative resolution, preserving the competitive edge of inventors, and fostering an environment conducive to technological advancement.

Drawing from successful international models in jurisdictions such as the United States, the European Union, Japan, and Singapore, this paper demonstrates that mandatory mediation enhances judicial efficiency and strengthens investor confidence by reducing legal uncertainty. The experiences of the Unified Patent Court (UPC) in Europe and the Singapore International Mediation Centre (SIMC) serve as compelling case studies, illustrating how mediation can expedite dispute resolution while maintaining the integrity of patent enforcement processes (Menkel-Meadow, 2015). These jurisdictions provide clear evidence that well-integrated ADR mechanisms contribute to economic resilience by ensuring that intellectual property disputes do not become barriers to innovation.

For Indonesia, adopting mandatory mediation represents more than a procedural reform; it reflects a broader commitment to fostering an innovation-driven economy. As the country seeks to expand its footprint in the global technology and manufacturing sectors, it is paramount to ensure that inventors and businesses have access to efficient patent protection mechanisms. A legal environment

characterized by predictability and fairness is a powerful incentive for both domestic entrepreneurs and foreign direct investment (FDI), reinforcing Indonesia's standing as an attractive destination for technological ventures.

In conclusion, this paper advocates urgently adopting legislative reforms that institutionalize mandatory mediation as a cornerstone of Indonesia's patent dispute resolution framework. Such reforms will alleviate the burdens on the judiciary and empower Indonesia's inventors and entrepreneurs, fostering a legal environment that champions creativity, innovation, and sustainable economic progress.

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