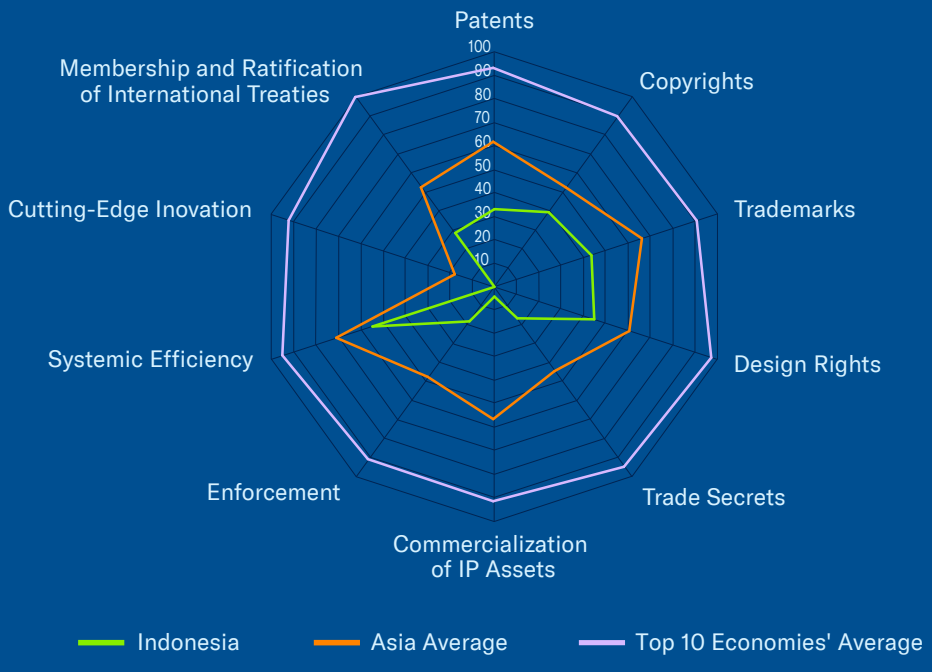
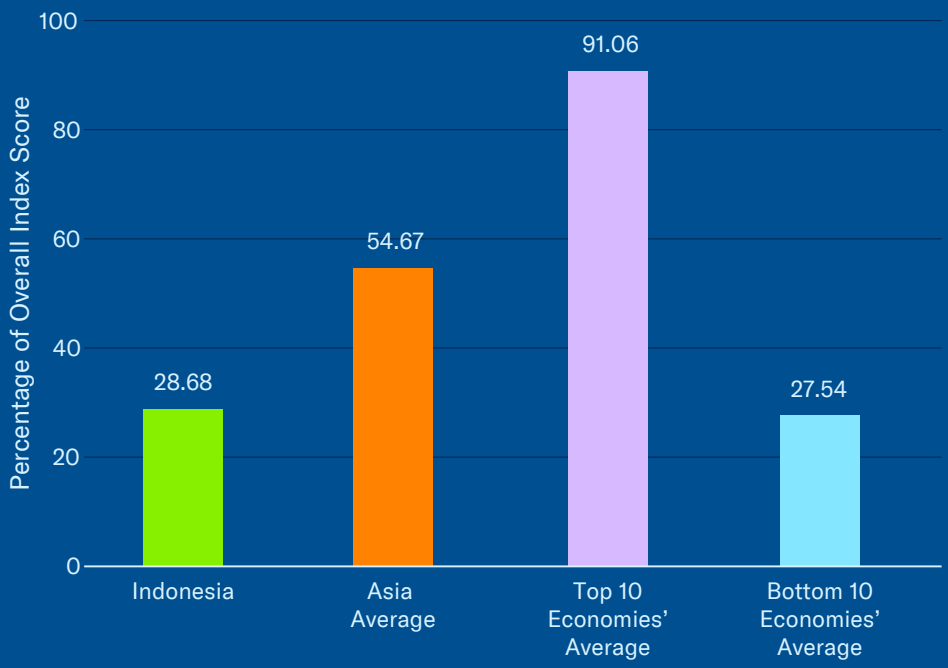
Indonesia

Rank
50/55

Category Scores



Overall Score in Comparison



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Key Areas of Strength

- The Omnibus Job Creation Bill modifies the general technology transfer and localization requirement of the 2016 Patent Act to include importation
- Continued strong efforts by the Directorate General of Intellectual Property to improve enforcement environment
- PPH in place with JPO
- Administrative relief is available for copyright infringement online
- Good cabinet-level coordination and coordinating framework for IP enforcement

Key Areas of Weakness

- No special IP incentives for orphan medicinal product development
- Expansive criteria for compulsory licensing and government use provisions, with a long history of issuing such licenses, the latest from 2021
- Significant barriers are in place for licensing and commercialization of IP assets, including technology transfer
- Biopharmaceutical patentability standards are outside international norms
- Challenging copyright environment with high levels of piracy, as administrative measures do not address mirror and linking sites
- Limited participation in international IP treaties

Indicator	Score
Category 1: Patents Rights and Limitations	**3.00**
1. Term of protection	1.00
2. Patentability requirements	0.00
3. Patentability of CIIs	0.25
4. Plant variety protection	1.00
5. Pharmaceutical-related enforcement	0.00
6. Legislative criteria and use of compulsory licensing	0.00
7. Pharmaceutical patent term restoration	0.00
8. Membership of a Patent Prosecution Highway	0.50
9. Patent opposition	0.25
Category 2: Copyrights and Limitations	**2.77**
10. Term of protection	0.52
11. Exclusive rights	0.25
12. Expeditious legal remedies disabling access to infringing content online	0.75
13. Cooperative action against online piracy	0.50
14. Limitations and exceptions	0.25
15. TPM and DRM	0.25
16. Government use of licensed software	0.25
Category 3: Trademarks Rights and Limitations	**1.75**
17. Term of protection	1.00
18. Protection of well-known marks	0.25
19. Exclusive rights, trademarks	0.25
20. Frameworks against online sale of counterfeit goods	0.25
Category 4: Design Rights and Limitations	**0.90**
21. Industrial design term of protection	0.40
22. Exclusive rights, industrial design rights	0.50
Category 5: Trade Secrets and the Protection of Confidential Information	**0.50**
23. Protection of trade secrets (civil remedies)	0.25
24. Protection of trade secrets (criminal sanctions)	0.25
25. Regulatory data protection term	0.00
Category 6: Commercialization of IP Assets	**0.25**
26. Barriers to market access	0.00
27. Barriers to technology transfer	0.00
28. Registration and disclosure requirements of licensing deals	0.00
29. Direct government intervention in setting licensing terms	0.00
30. IP as an economic asset	0.25
31. Tax incentives for the creation of IP assets	0.00
Category 7: Enforcement	**1.28**
32. Physical counterfeiting rates	0.37
33. Software piracy rates	0.17
34. Civil and precedural remedies	0.25
35. Pre-established damages	0.00
36. Criminal standards	0.25
37. Effective border measures	0.25
38. Transparency and public reporting by customs	0.00
Category 8: Systemic Efficiency	**2.75**
39. Coordination of IP rights enforcement	1.00
40. Consultation with stakeholders during IP policy formation	0.75
41. Educational campaigns and awareness raising	0.25
42. Targeted incentives for the creation and use of IP assets for SMEs	0.50
43. IP-intensive industries, national economic impact analysis	0.25
Category 9: Cutting-Edge Innovation	**0.00**
44. IP incentives for orphan medicinal product development	0.00
45. IP incentives for orphan medicinal product development, term of protection	0.00
46. Restrictions on the effective use of existing IP incentives for orphan medicinal product development	0.00
Category 10: Membership and Ratification of International Treaties	**2.00**
47. WIPO Internet Treaties	1.00
48. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	0.50
49. Patent Law Treaty and Patent Cooperation Treaty	0.50
50. Membership of the International Convention for the Protection of New Varieties of Plants, act of 1991	0.00
51. Membership of the Convention on Cybercrime, 2001	0.00
52. The Hague Agreement Concerning the International Registration of Industrial Designs	0.00
53. Post-TRIPS FTA	0.00

Percentage of Overall Score: 28.68% • Total Score: 15.20

Spotlight on the National IP Environment

Past Editions versus Current Score

Indonesia's overall Index score has decreased from 15.21 out of 50 indicators in the twelfth edition to 15.20 out of 53 indicators. This reflects a score decrease for indicator 32.

Patent Rights and Limitations

2. Patentability requirements:
Important new developments occurred in the patenting environment in Indonesia in 2024. At the time of research, a draft set of amendments to the Patent Law had passed through a second reading and debate in the People's Representative Council. These amendments include potentially important changes to patentability requirements. Specifically, draft changes released to the public included the elimination of a heightened efficacy requirement targeting biopharmaceutical products and outlawed second use claims, which were first introduced in the 2016 Patent Law, Law 13 2016. The elimination of this requirement would be a welcome and positive development. Unfortunately, the draft amendments retain many negative aspects of the 2016 Law. For example, draft Article 167 continues to allow the parallel importation of follow-on products under patent protection in Indonesia but approved for consumption in other markets. Similarly, as detailed in indicator 6, suggested changes to the compulsory licensing and government use regime do not improve what is already a highly challenging and negative environment. On a positive note, the Omnibus Job Creation Bill has now come into effect, including changes to Article 20 of the 2016 Patent Law. As detailed in past editions of the Index, Article 20 of the 2016 Law seemed to make the granting of a patent conditional on localizing manufacturing and/or R&D in Indonesia. Although the final passed version of the Omnibus law did not eliminate the working requirement, Article 107(2) defined the use and "implementation" of patents in Indonesia as including domestic creation, importation, or the licensing of the relevant invention. This version of the law remains in effect today. The Index will continue to monitor these developments in 2025.

6. Legislative criteria and use of compulsory licensing of patented products and technologies:
The Indonesian Government's focus on compulsory licensing as public health policy continued in 2024. The draft amendments to the Patent Law discussed earlier also include changes to relevant articles related to compulsory licensing and government use. Notably, Article 84A vests considerable authority to override duly granted patent rights to the national competition authorities (the Business Competition Supervisory Commission). Specifically, the article states that the standard process for considering and issuing a compulsory license can be exempted if the commission finds "the implementation of a patent is proven to have resulted in monopolistic practices and/or unfair business competition." It remains unclear how any duly granted patent could not, as a matter of course, result in a time-limited and legally sanctioned monopoly: that is the whole rationale underlying all forms of registered IP rights, including patents. Should this article stand as written, it would potentially undermine and all but nullify all granted patent rights in Indonesia.

Indonesia has a long history of actively using and viewing compulsory licensing as a health policy tool. The government has since the mid-2000s issued several "government use" compulsory licenses overriding existing biopharmaceutical patents primarily for hepatitis, HIV drugs and, most recently, COVID-19 treatments.

Developing new medicines is a long-term, high-risk, resource-intensive process. The fixed costs in terms of laboratories, research facilities, and researchers are high. IP rights provide a limited-term market exclusivity that gives firms sufficient time to recoup R&D investments made ahead of competition from additional market entrants who bore none of the costs of early-stage investment, R&D, and product commercialization. Many drugs and therapies may not have been discovered without the legal rights provided to innovators through IP laws. Undermining these incentives through the active use of compulsory licensing and the overriding of IP rights is counterproductive. Over time, such action will hollow out the national IP environment and incentives for future biopharmaceutical innovation. The negative effect will be the same for Indonesian and foreign innovators.

Design Rights and Limitations

21. Industrial design term of protection:
Article 5 of the Industrial Design Law provides a 10-year term of protection for registered designs. This is notably less than the 25-year term benchmark used by the Index. As noted last year, reports suggest that the Directorate General of Intellectual Property and the government have proposed new amendments to the Design Law, and these include an increase in the term of protection available up to 15 years. Such an increase in the term of protection for registered designs will result in a score increase for this indicator. At the time of research, the People's Consultative Assembly of the Republic of Indonesia was still examining the bill. The Index will continue to monitor these developments in 2025.

Incentives for Cutting-Edge Innovation

44. Special market exclusivity incentives for orphan medicinal product development; 45. Special market exclusivity incentives for orphan medicinal product development, term of protection; and 46. Restrictions on the effective use of existing market exclusivity incentives for orphan medicinal product development:
Interest in rare diseases has grown in the Asia-Pacific region. In 2017, the Asia-Pacific Economic Cooperation (APEC) forum (of which Indonesia is a member) announced a new initiative geared specifically toward rare diseases, the "APEC Action Plan on Rare Diseases." The plan aims to "address barriers to the diagnosis and treatment of rare diseases in the region." It consists of 30 individual targets across 10 pillars, including the promotion of innovative R&D through financial incentives, expedited market review procedures, and support for domestic R&D. Indonesia does not have in place any special IP-based market exclusivity incentives for orphan medicinal product development.