



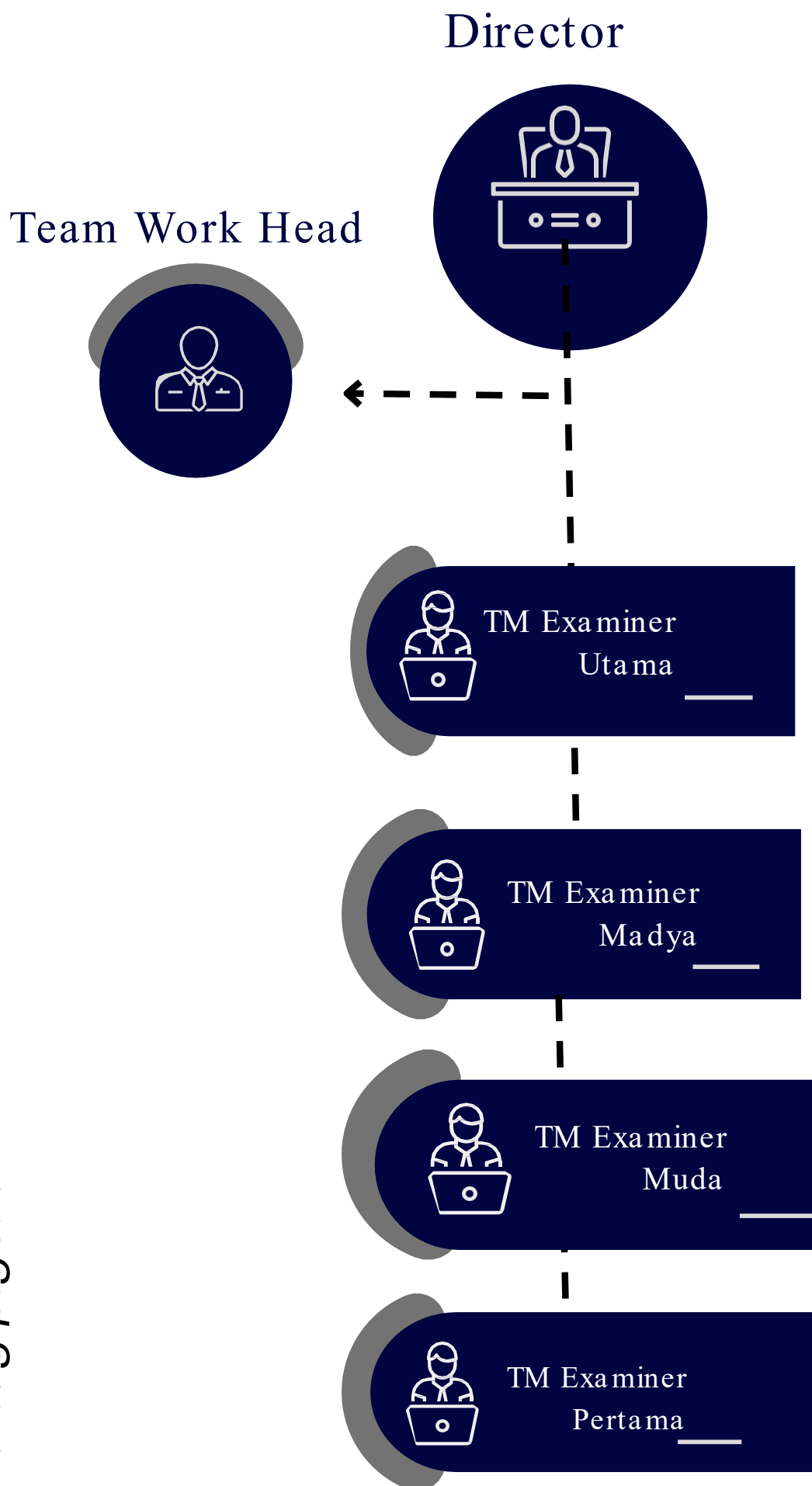
Trademark Protection Developments and Challenges in Indonesia

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Trademark Examiner

LEGAL FRAMEWORKS

-  **Law No. 20 /2016**
Trademarks and Geographical Indications
-  **Ministry of Law and Human Rights Regulation No. 67 / 2016 → No. 12 / 2021**
Trademark Registration
-  **Government Regulation No. 29 / 2019 → No. 24 / 2024**
Non-Tax State Revenue (PNBP) Tariffs
-  **Ministry of Law and Human Rights Regulation No. 42 / 2016**
Electronic Application Services of Intellectual Property

-  **Government Regulation No. 22 / 2018**
International Trademark Registration based on Madrid Protocol
-  **Government Regulation No. 90 / 2019**
Trademark Appeal Commission
-  **Government Regulation No. 36 / 2018**
Intellectual Property License Recording
-  **Government Regulation No. 24 / 1993**
Goods and Services Classification
-  **Law No.11 / 2020**
Omnibus Law on Job Creation



Trademark Examination Team



Director of Trademark and Geographical Indication

- Top management, evaluating examiner performance



Head of Trademark Substantive Examination Working Team

- Reviewing the quality of the trademark examination result
- Assisting the Director in evaluating the performance of the examiner
- Developing the standards of services, examining guidelines, and Standard Operating Procedures



Trademark Examiners (10 Team Works)

- **Pemeriksa Utama** (Principal) = 17 examiners (dissemination, training, Trademark Appeal Commission member (selected), developing guidelines, Madrid examiner (selected), mentoring, reviewing).
- **Pemeriksa Madya** (Senior) = 40 examiners (training, Trademark Appeal Commission member (selected), mentoring, reviewing, developing guidelines, examining opposition, examining the provisional refusal response, Madrid examiner (selected)).
- **Pemeriksa Muda** (Junior) = 15 (first level examination and examining the provisional refusal response).
- **Pemriksa Pertama** (Novice) = 16 (first level examination).



Government Employees with Work Agreement (PPPK)

- Assisting trademark examiners' jobs.

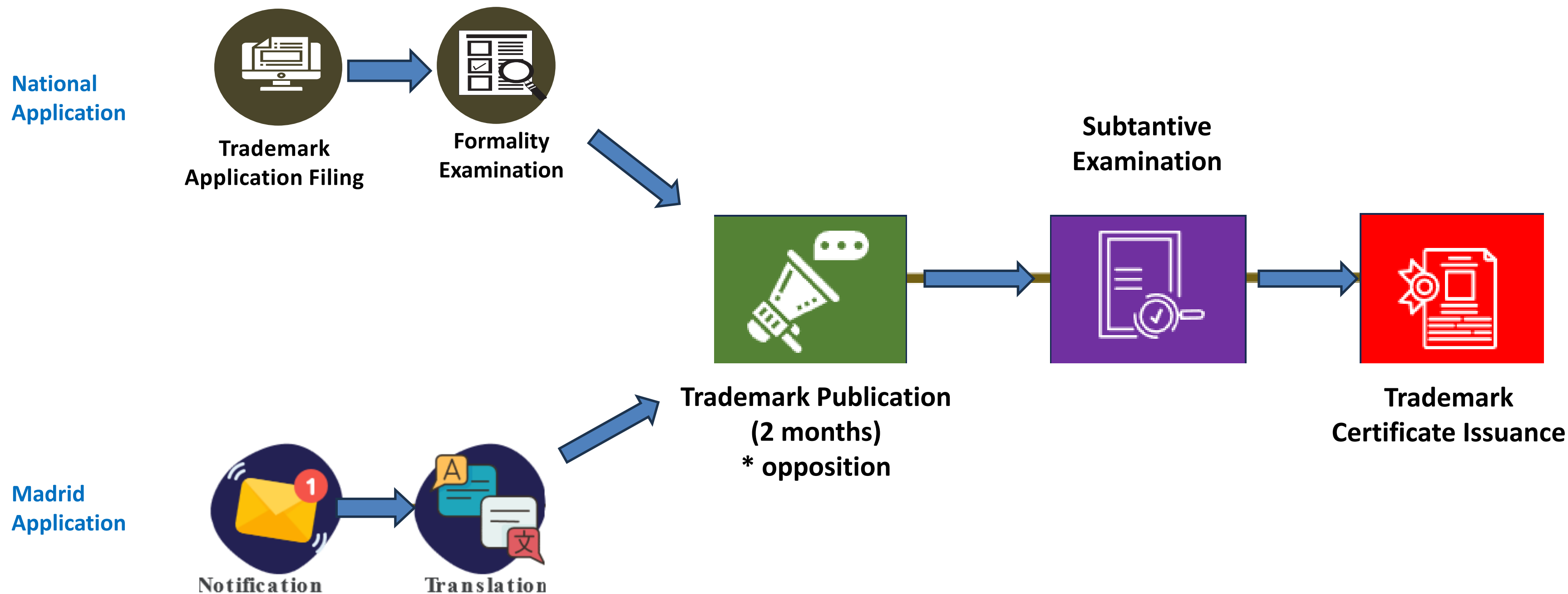


Definition of Marks

Mark means **any sign** capable of being represented graphically in the form of drawings, logos, names, words, letters, numerals, color scheme, in 2 (two) dimensional and/or 3 (three) dimensional shape, sounds, holograms, or combination of 2 (two) or more of those elements to **distinguish goods** and/or services produced by a person or legal entity **in trading** goods and/or services.

(According to Article 1 Section 1 Law No. 20/2016)

Trademark Registration Procedure





Trademark Quality Assurance

1. Opposition (external)
2. Substantive level (internal)
 - Mentoring and Reviewing (Pemeriksa Utama and/or Pemeriksa Madya; Head of Trademark Substantive Examination Working Team)
 - Establishing a Quality Management Systems Working Team (QMS) for trademark examiners
3. Setting a timeframe for the trademark business process (no longer than 6 months for 1st action).



Opposition and Rebuttal

(Articles 16 and 17 Law No.20/2016)



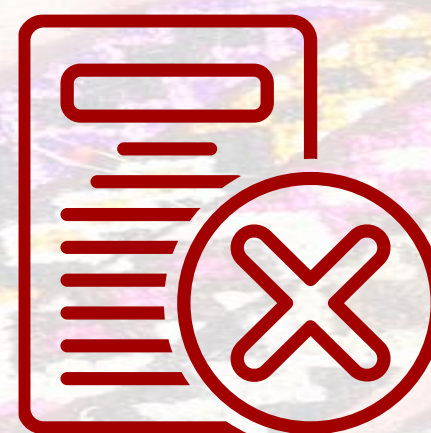
Opposition:

1. Any interested third party who objects to the trademark registration application.
2. Provides sufficient grounds and evidence to show that the mark should not be registered.
3. Grounds for opposition can be similarity to an existing mark, bad faith registration, or violation of public policy, such as marks that violate public morality, public order, or laws...
4. Within the period of publication (2 months).



Rebuttal

1. Applicant of the trademark registration application concerned or his/her attorney.
2. Submitted in writing not later than 2 months as from the Mailing Date of opposition.



Non-registrable Mark & Rejected Mark

Absolute and Relative Grounds

Articles 20 and 21 of Law No. 20/ 2016

Absolute Grounds for Refusal

(Article 20 of Law No. 20/2016)

a.

Contrary to the state ideology, laws and regulations, morality, religion, decency, or public order.

d.

Contains information that does not correspond to the actual quality, benefits, or efficacy of the goods and/or services produced.

b.

Identical to, related to, or merely referring to the goods and/or services applied for registration

e.

Lack of Distinctiveness

c.

Contains elements that may mislead the public regarding the origin, quality, type, size, category, or intended use of the goods and/or services being applied for, or constitutes the name of a protected plant variety for similar goods and/or services

f.

A generic name and/or a public symbol

Relative Grounds for Refusal

Article 21 Law No.20/2016

Article 21 Paragraph (1) Similar to or Identical with

- A Prior registered trademark or prior application for similar goods and/or services
- B well-known trademark for similar goods and/or services
- C well-known trademark for different goods and/or services
- D registered Geographical Indication

Article 21 Paragraph (3)

Bad Faith

Article 21 Paragraph (2) Constitutes Imitation of or Similar to (no written consent)

- A name or initial of a well-known individual, photograph, or name of a legal entity
- B name or initial, flag, symbol, or State emblem, or both national and international agencies,
- C the official sign, seal, or stamp used by a country or Government agency

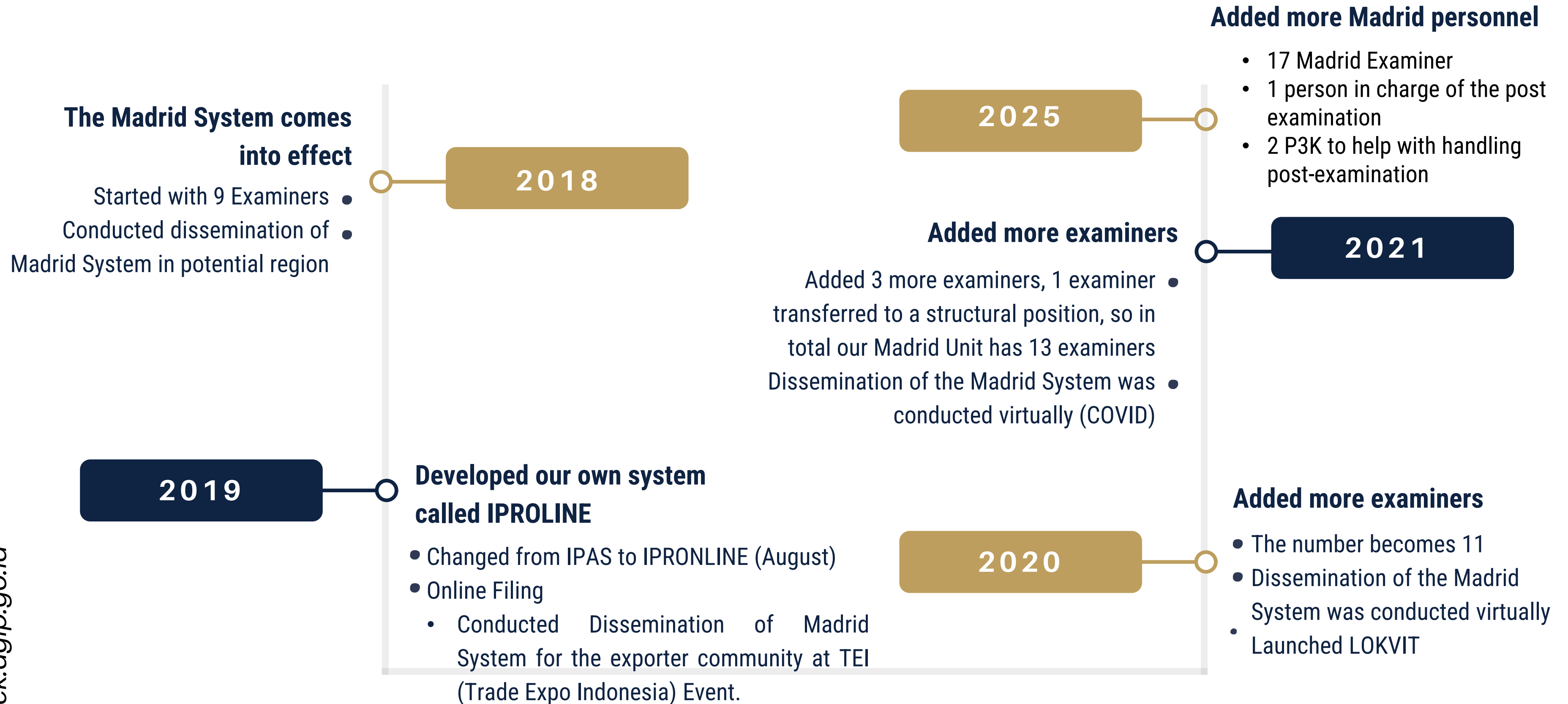


Steps to Win Back the Rejected Trademark Application

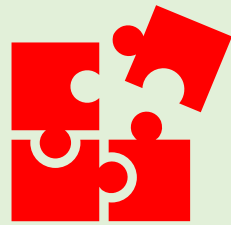
- ☐ Submit a response due to provisional refusal (hearing)
 - 30 days from the Mailing Date of the notification of provisional refusal
 - Trademark provisional refusal
- ☐ File an appeal petition in the Trademark Appeal Commission
 - 90 days from the mailing date of the notification of final refusal
 - The rejection based on substantive grounds (Articles 20 and 21)
 - The rejection of the renewal (Article 37, paragraph (3)).
 - The rejection of a GI registration (Article 56, paragraph (2)).
- ☐ File a lawsuit in the Commercial Court
 - 3 months from the date of receiving the Trademark Appeal Commission rejection decision



Madrid System in Indonesia



DGIP Challenges on Trademark Protection



Obstacles

- Knowledge gap of trademark examiners
- Disparity of trademark examiner's decisions
- ineligible trademark applications
- Government financial efficiency
- Several obstacles exist within the system

Solutions

- 💡 Training, seminar, workshop for trademark examiner, two-stage examination
- 💡 Substantive examination technical guidelines
- 💡 Educate the entrepreneurs, SMEs, and the business communities
- 💡 Rearrange programs, conduct the low-budget project, maximize virtual event, and flexible working/WFA (Friday)
- 💡 IT development





IT Development

- ☐ Data cleansing to maintain the validity of data in the database
- ☐ Developing a new feature to search visual similarity using AI, named PENELUSURAN MEREK
- ☐ Using Virtual Desktop Infrastructure (VDI) and FortiClient Virtual Private Network (VPN) as a support system for working remotely
- ☐ System development to address particular problems based on necessity





Government Programs for Trademark Protection

- ☐ Launching Persetujuan Otomatis Pelayanan Merek or Automatic Service Approval (POP) for renewal, IP license agreements recordal, and request for official trademark certificate copy
- ☐ Online-based Intellectual Property (IP) services
- ☐ Supporting SMEs, such as: lower trademark registration application fee; events to promote SME; collaborating with stakeholders (banks, cooperatives, and related government agencies) to assist SMEs
- ☐ Assigning officers in charge to handle trademark issues in the regional office of the Ministry of Law throughout Indonesia
- ☐ Promoting collective mark
- ☐ Encouraging trademark commercialization (DGIP IP Marketplace platform; bazaar; events)
- ☐ Training, seminars, and workshops for entrepreneurs, SMEs, and the business communities
- ☐ Legislative reform





KEMENTERIAN HUKUM
DIREKTORAT JENDERAL
KEKAYAAN INTELEKTUAL

DGIP CONTACT

DGIP Official Website



Contact Center :



Call Center
152



Live Chat
dgip.go.id



Lapor!
lapor.go.id



E-mail
halodjki@dgip.go.id



Video Conference
dgip.go.id

Social Media



@DJKI_Kemenkum



@DJKI_Kemenkum



DJKI Kementerian Hukum



DJKI Kemenkum



IP WORKSHOP



IP AWARDS



IP BUSINESS MATCHING



IP FORUM



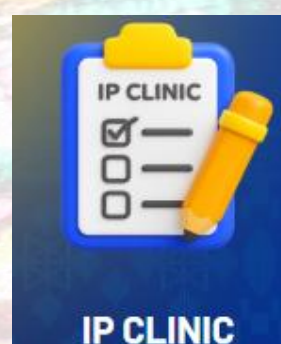
IP CONTEST



IP ENFORCEMENT FORUM



IP EXHIBITION



IP CLINIC



Thank you...