



# THE LAW ON SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT DESIGN REGSITRATION IN INDIA

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**ANJAN SEN**

***Patent Attorney & IPR Advocate,***

**ANJAN SEN & ASSOCIATES**

**Patent & Trade Mark Attorneys**

**17,Chakraberia Road South,Kolkata,India.**

**Dial: + 91-033-24749871; 65293955,**

**Fax: +91 – 33 – 24868693**

**e-mail: [anjanonline@vsnl.net](mailto:anjanonline@vsnl.net)**

**[info@ipindiaasa.com](mailto:info@ipindiaasa.com)**

**website: [www.ipindiaasa.com](http://www.ipindiaasa.com)**

**THE SEMICONDUCTOR INTEGRATED CIRCUITS  
LAYOUT-DESIGN ACT, 2000**

**Act for 'Lay Out Designs of Integrated Circuits'  
in India.**

BASIS OF THE LAW ON LAYOUT DESIGNS OF IC  
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**SECTION 6 ARTICLE 35 OF TRIPS AGREEMENT  
ENDORSED THE WASHINGTON TREATY ON  
INTELLECTUAL PROPERTY IN RESPECT OF  
INTEGRATED CIRCUITS:**

- (i) “integrated circuit” means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform an electronic function,
- (ii) “layout-design (topography)” means the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional disposition prepared for an integrated circuit intended for manufacture,

## Article 3:

### (1) *[Obligation to Protect Layout-Designs (Topographies)]*

- (a) To secure, throughout its territory, intellectual property protection in respect of layout-designs (topographies) in accordance with this Treaty. It shall, in particular, secure adequate measures to ensure the prevention of acts considered unlawful under Article 6 and appropriate legal remedies where such acts have been committed.
- (b) The right of the holder of the right in respect of an integrated circuit applies whether or not the integrated circuit is incorporated in an article.

### (2) *[Requirement of Originality]*

- (a) The obligation shall apply to layout-designs (topographies) that are **original** in the sense that they are the result of their creators' own intellectual effort and are not commonplace among creators of layout-designs (topographies) and manufacturers of integrated circuits at the time of their creation.
- (b) A layout-design (topography) that consists of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, should fulfill originality requirement.

## **Article 6; Scope of protection of Integrated Circuit Topography:**

(1) *[Acts Requiring the Authorization of the Holder of the Right]*

(a) Following acts unlawful if performed without the authorization of the holder of the right:

- the act of reproducing, whether by incorporation in an integrated circuit or otherwise, a protected layout-design (topography) in its entirety or any part thereof,
- (ii) the act of importing, selling or otherwise distributing for commercial purposes a protected layout-design (topography) or an integrated circuit in which a protected layout-design (topography) is incorporated.

TRIPS Article 36 also prescribed cover for:

An article incorporating such an integrated circuit only in so far as it continues to contain an unlawfully reproduced Layout design.

## **(2) [Acts Not Requiring the Authorization of the Holder of the Right]**

- (a) The act of reproduction where that act is performed by a third party for private purposes or for the sole purpose of evaluation, analysis, research or teaching.
- (b) Where the third party on the basis of evaluation or analysis of the protected layout-design (topography) (“the first layout-design (topography)”), creates a layout-design (topography) complying with the requirement of originality (“the second layout-design (topography)”), that third party may incorporate the second layout-design (topography) in an integrated circuit or perform any of the acts in respect of the second layout-design (topography) without being regarded as infringing the rights of the holder of the right in the first layout-design (topography).
- (c) The holder of the right may not exercise his right in respect of an identical original layout-design (topography) that was independently created by a third party.

## **(3) [Measures Concerning Use Without the Consent of the Holder of the Right]**

- (a) Any Contracting Party may, in its legislation, provide for the possibility of its executive or judicial authority granting a non-exclusive license, in circumstances that are not ordinary, for the performance of any of the acts by a third party without the authorization of the holder of the right (“non-voluntary license”), after unsuccessful efforts, made by the said third party in line with normal commercial practices, to obtain such authorization, where the granting of the non-voluntary license is found, by the granting authority, to be necessary to safeguard a national purpose deemed to be vital by that authority; the non-voluntary license shall be available for exploitation only in the territory of that country and shall be subject to the payment of an equitable remuneration by the third party to the holder of the right.

#### ***(4) [Sale and Distribution of Infringing Integrated Circuits Acquired Innocently]***

TRIPS Article 37 further prescribes that after the time the person has received sufficient notice that the layout design was unlawfully reproduced, that person may perform any of the acts with respect to the stock on hand or ordered before such time, but shall be liable to pay the right holder a reasonable royalty.

#### ***(5) [Exhaustion of Rights] Notwithstanding***

A layout-design (topography) is incorporated, that has been put on the market by, or with the consent of, the holder of the right.



## TRIPS ARTICLE 38-TERM OF PROTECTION

1. Term of protection atleast 10 years from date of filing application for registration or date of first commercial Exploitation;
2. If registration not a condition fro protection, the term can be atleast 10 years from the date of first commercial exploitation anywhere in the world;
3. Members can provide a maximum of 15 years protection from date of creation of the layout design.

TREATY ON IP IN RESEPECT OF IC -TRIPS-INDIAN ACT OF 2000

**Section 2(h) of Indian Act,2000:**

**“layout-design” means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit;**

# WHO CAN FILE AN APPLICATION FOR REGISTRATION OF LAYOUT DESIGN

ANY PERSON CLAIMING TO BE THE CREATOR OF  
A LAYOUT DESIGN AND DESIROUS OF REGISTERING  
THE DESIGN

# Section 7 of Indian Act,2000:

DESIGNS WHICH ARE NOT PROHIBITED ARE REGISTRABLE

## WHAT IS PROHIBITED FROM REGISTRATION:—

- (a) Which is not original; or
- (b) Which has been commercially exploited\* anywhere in India or in a convention country; or
- (c) Which is not inherently distinctive; or
- (d) Which is not inherently capable of being distinguishable from any other registered layout-design

**Section 2(e) of Indian Act,2000:**

**“commercial exploitation”, in relation to Semiconductor Integrated Circuits Layout-Design, means to sell, lease, offer or exhibit for sale or otherwise distribute such semiconductor integrated circuit for any commercial purpose.**

## **Savings In Case Of Commercial Exploitation \***

**Provided that a layout-design which has been commercially exploited for not more than two years from the date of an application for its registration has been filed either in India or in a convention country shall be treated as not having been commercially exploited for the purposes of this sub-section.**

## **What is Requirement of an Original Layout Design:**

**If it is the result of its creator's own intellectual efforts and is not commonly known to the creators of layout-designs and manufactures of semiconductor integrated circuits at the time of its creation:**

**A layout-design consisting of such combination of elements and inter-connections that are commonly known among creators of layout-designs and manufacturers of semiconductor integrated circuits shall be considered as original if such combination taken as a whole is the result of its creator's own intellectual efforts.**



## **Right of Registration For Commissioned Works:**

**Where an original layout-design has been created in execution of a commission or a contract of employment, the right of registration to such layout-design under this Act shall belong, in the absence of any contractual provision to the contrary, to the person who commissioned the work or to the employer.**

**“registered layout-design” means a layout-design which is actually on the register**

## Where to File Applications For Registration:

**Office of the Semiconductor Integrated Circuits Layout-Design Registry within whose territorial limits the principal place of business in India of the applicant or in the case of joint application the principal place of business in India of the applicant whose name is first mentioned in the application, a having a place of business in India, is situate:**

**Provided that, where the applicant or any of the joint applicant does not carry on business in India, the application shall be filed in the office of the Semiconductor Integrated Circuits Layout-Design Registry within whose territorial limits the place mentioned in the address for service in India as disclosed in the application is situate.**

For registration representations which would clearly describe the layout-design, should be attached to the application such as :-

- (i) three sets of drawings produced with a plotter which describes the layout-design applied for registration;
- (ii) three sets of photographs of masks used for the fabrication of the semiconductor integrated circuit by using of the layout-design applied for registration;
- (iii) three sets of the drawings which describe the pattern of such masks.

**Advertisement of application.—** When an application for registration of a layout-design has been accepted, the Registrar shall, within fourteen days after the date of acceptance, cause the application as accepted to be advertised in the prescribed manner.

## **Possible Opposition to Registration:**

**Any person may, within three months from the date of the advertisement or re-advertisement of an application for registration or within such further period, not exceeding one month in the aggregate, as the Registrar, on application made to him in the prescribed manner to the Registrar of opposition to the registration.**

**The applicant to send to the Registrar a counter-statement of the grounds on which he relies for his application and if he does not do so, he shall be deemed to have abandoned his application.**

**Evidences by parties and final hearing to decide .**

## **Registration Process To Complete Within 12 Months**

Where registration of a layout-design is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

**Duration of registration.— The registration of a layout-design shall be only for a period of only ten years counted from the date of filing an application for registration or from the date of first commercial exploitation anywhere in India or in any country whichever is earlier.**



**No action of infringement of unregistered layout-design.—No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered layout-design.**

**Rights conferred by registration.—**Subject to the other provisions of this Act, the registration of a layout-design shall, if valid, give to the registered proprietor of layout-design the exclusive right to the use of the layout-design and to obtain relief in respect of infringement in the manner provided by this Act.

***Explanation.—*** For removal of doubts, it is hereby declared that the rights conferred by the registration of a layout-design shall be available to the registered proprietor of that layout-design irrespective of the fact as to whether the layout-design is incorporated in an article or not.

**What Constitutes Infringement of layout-design.—(1) A registered**

**layout-design is infringed by a person who, not being the registered proprietor of the layout-design or a registered user thereof,—**

- (a) does any act of reproducing, whether by incorporating in a semiconductor integrated circuit or otherwise, a registered layout-design in its entirety or any part thereof, ;**
- (b) does any act of importing or selling or otherwise distributing for commercial purposes a registered layout-design or a semiconductor integrated circuit containing such registered layout-design for the use of which such person is not entitled under this Act.**

## **No Infringement In Certain Cases:**

- (i) where such act is performed for the limited purposes of scientific evaluation, analysis, research or teaching, shall not constitute act of infringement within the meaning of that clause.**
- (ii) where a person, on the basis of scientific evaluation or analysis of a registered layout-design, creates another layout-design which is original under the Act, that person shall have the right to incorporate such another layout-design in a semiconductor integrated circuit or to perform any of the acts in respect of such another layout-design and such incorporation or performance of any act shall not be regarded as infringement .**

**(iii) Where a layout-design is created by the process of scientific evaluation or analysis of the registered layout-design as referred to in (ii), the use of such layout-design by the proprietor of such registered layout-design shall be regarded as infringement after the date of registration of such layout-design under this Act.**

**(iv) if such act is performed or directed to be performed in respect of a semiconductor integrated circuit incorporated a registered layout-design or any article incorporating such a semiconductor integrated circuit where such person does not posses any knowledge or has no reasonable ground to know while performing or directing to be performed such act in respect of such semiconductor integrated circuit or article that it incorporated a registered layout-design but after the time when such person has received notice of such knowledge, he may continue to perform or directing to be performed such act in respect of the stock on hand or ordered before such time and, then, he shall be liable to pay reasonable Royalty only.**

**(v) where any person performs with the written consent of the registered proprietor of a registered layout-design or within the control of the person obtaining such consent, or in respect of a registered layout-design or a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit, that has been put on the market by or with the consent of the registered proprietor of such registered layout-design.**

## **Independent Creation of IC layout not an Infringement:**

**Notwithstanding anything contained in this Act, where any person by application of independent intellect has created a layout-design which is identical to a registered layout-design, then, any act of such person in respect of the layout-design so created shall not be the infringement of the registered layout-design.**



**Establishment of Layout-Design Appellate Board.**—The Central government shall, by notification in the Official Gazette, establish an Appellate Board to be known as the Layout-design Appellate Board to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

**Power of the Board to cancel registration.— (1)**

Any person may make an application, in the prescribed form accompanied with prescribed fee, to the Appellate Board for cancellation of the registration of a layout-design registered under this Act or registration of assignment or transmission relating thereto, as the case may be, on the ground that —

- (a) in the case of the registration of a layout-design, the layout-design is prohibited for being registered under section 7, or
- (b) in the case of the registration of assignment or transmission relating to a registered layout-design, such assignment or transmission is contrary to any provision of the law for the time being in force.

(2) The Appellate Board shall, on receipt of an application under sub-section (1), give notice to the opposite parties in the prescribed manner and after giving them an opportunity of being heard, make such order as it may deem fit regarding cancellation of registration:

Provided that where the ground of cancellation has been established with respect only to a part of a layout-design, the Board shall cancel only such part and the remaining part of the layout-design if capable of performing as a semiconductor integrated circuit shall be retained as registered on the register in the name of the registered proprietor of such layout-design.

## **Appeal Provisions & Jurisdiction:**

Any person aggrieved by any decision or order of the Appellate Board under this Act may, within the prescribed period appeal to the High Court within whose the jurisdiction of head office or the branch office of the Semiconductor Integrated Circuits Layout-Design Registry against the decision or order of which the appeal arises is situated.

**Penalty for infringement of layout-design. —**

Any person who contravenes and infringes a registered layout design shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifty-thousand rupees but which may extend to ten lakh rupees, or with both.

**Convention countries.**—With a view to the fulfillment of a treaty, convention or arrangement with any country outside India which affords to citizens of India similar privileges as granted to its own citizens, the Central Government may, by notification in the Official Gazette, specify such country to be a convention country for providing the citizens of such convention country the similar privileges as granted to the citizens of India under this Act.

## **Authorised Agents Can Act On Behalf of Applicants**

A person duly authorized in the prescribed manner, who is—

- (a) a legal practitioner, or
- (b) a person registered in the prescribed manner as a layout-design agent, or
- (c) a person in the sole and regular employment of the principal.

*Thank You For Your Valuable Time & Listening*

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Dial: 033-24749871, 65293955,

Telefax: +91 – 033 – 24868693

e-mail: [anjanonline@vsnl.net](mailto:anjanonline@vsnl.net)

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website: [www.ipindiaasa.com](http://www.ipindiaasa.com)