

ACT ON THE LAYOUT-DESIGNS OF SEMICONDUCTOR INTEGRATED CIRCUITS

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to contribute to the sound development of the national economy through the promotion of industries and technologies relating to semiconductors by protecting the rights of persons who create a layout-design for a semiconductor integrated circuit and by encouraging the fair utilization of such a layout-design.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "semiconductor integrated circuit" means a semi-finished or finished product that has been manufactured to function as an electronic circuit through a process of integrating circuit elements, including one or more active elements, and wires connecting such elements onto the surface of any semiconductor or insulating material, or into semiconductor material, in an inseparable form;
2. The term "layout-design" means a design of laying out various circuit elements and wires connecting such elements in two or three dimensions for manufacturing a semiconductor integrated circuit;
3. The term "creation" means a person's activities of making a unique layout-design as a result of the person's intellectual efforts. In such cases, activities of making a layout-design shall be deemed to be creation, if the layout-design as a whole is unique, although it is composed of a combination of elements of an ordinary layout-design;
4. The term "using" means any of the following activities:
 - (a) Reproduction of a layout-design;
 - (b) Manufacturing of a semiconductor integrated circuit based on a layout-design;
 - (c) Assigning, leasing, displaying (limited to cases for the purpose of assigning or leasing), or importing of a layout-design, a semiconductor integrated circuit manufactured according to a layout-design, or a product manufactured by using a semiconductor integrated circuit (hereinafter referred to as "semiconductor integrated circuit or similar product");
5. The term "layout-design right" means rights created when the establishment of a layout-design is registered with the Commissioner of the Korean Intellectual Property Office pursuant to Article 21 (1).

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 3 (Layout-Designs of Foreigners, etc.)

(1) Any layout-design of a foreigner or a foreign corporation is protected by this Act and treaties which the Republic of Korea has acceded to or signed.

(2) Even if a layout-design of a foreigner or a foreign corporation from a foreign country is entitled to protection under paragraph (1), if the foreign country fails to provide layout-designs from the Republic of Korea with the protection equivalent to that under this Act, the Commissioner of the Korean Intellectual Property Office may place limitations accordingly on the protection of the layout-design from the foreign country under this Act or treaties which the Republic of Korea has acceded to or signed.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 4 (Layout-Design Administrator for Overseas Residents)

(1) No person who has no domicile or place of business in the Republic of Korea (hereinafter referred to as "overseas resident") may take any proceeding for a layout-design nor file a lawsuit against a disposition made by an administrative agency pursuant to this Act or an order under this Act, unless the overseas resident is represented by a person who acts on the overseas resident's behalf with regard to the layout-design and who has a domicile or a place of business in the Republic of Korea (hereinafter referred to as "layout-design administrator"), except where the overseas resident files an application for registration under paragraph (3) or where the overseas resident (where the overseas resident is a juristic person, the representative thereof) sojourns in the Republic of Korea.

(2) A layout-design administrator shall act on behalf of a principal overseas resident in all proceedings related to the authority delegated and for any lawsuit filed against a disposition made by an administrative agency pursuant to this Act or an order issued under this Act.

(3) No overseas resident who has registered the establishment of a layout-design pursuant to Article 21 (1) or who has completed the registration under Article 23 shall raise an objection against a third party, unless the appointment or replacement of a layout-design administrator or the grant or expiration of the authority of representation has been registered.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 5 (Creator of Layout-Design Created in Service)

With respect to a layout-design created in the course of service by a person employed by the State, a corporation, an organization, or any other employer (hereinafter referred to as "corporation, etc."), the corporation, etc. shall be deemed the creator of the layout-design, unless otherwise provided for in a contract, employment regulations, or the like.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 5-2 (Application Mutatis Mutandis of Patent Act)

Articles 28-2 through 28-5 of the Patent Act shall apply mutatis mutandis to an application or any other procedure for the registration of establishment of a layout-design right under Article 21 (1). In such cases, "procedure for a patent" shall be deemed to be "application or any other procedure for the registration of establishment of a layout-design right", the "Korean Intellectual Property Office or Korean Intellectual Property Tribunal" to be the "Korean Intellectual Property Office", the "Commissioner of the Korean Intellectual Property Office or the President of the Korean Intellectual Property Tribunal" to be the "Commissioner of the Korean Intellectual Property Office", a "written application for a patent" to be a "written application for registration of establishment", and the "Commissioner of the Korean Intellectual Property Office, the President of the Korean Intellectual Property Tribunal, a presiding administrative patent judge, an administrative patent judge, a presiding examiner or an examiner" to be the "Commissioner of the Korean Intellectual Property Office".

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

CHAPTER II LAYOUT-DESIGN RIGHTS

Article 6 (Creation of Layout-Design Rights)

Layout-design rights are created when the establishment of a creative layout-design is registered pursuant to Article 21 (1).

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 7 (Term of Layout-Design Rights)

(1) The term of a layout-design right shall be ten years from the registration date of establishment thereof.

(2) The term of a layout-design right under paragraph (1) shall not exceed ten years from the date on which the layout-design is initially used for making a profit or 15 years from the date on which it is created.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 8 (Effects of Layout-Design Rights)

A person who has registered the establishment of a layout-design pursuant to Article 21 (1) or a person who has succeeded to the rights from such person (hereinafter referred to as "holder of a layout-design right") shall have the exclusive right to use, for profit, the layout-design for which the registration of establishment has been made: Provided, That if an exclusive license under Article 11 (1) is established for the layout-design, the foregoing shall not apply to the extent that the exclusive licensee holds the exclusive license for the layout-design pursuant to Article 11 (2).

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 9 (Limitations on Layout-Design Rights)

(1) The effects of a layout-design right under Article 8 shall not extend to any of the following:

1. Reproduction, or vicarious reproduction, of a layout-design for education, research, analysis, evaluation, or any other similar activities or for personal use for any non-profit purpose;
2. A creative layout-design produced as a result of research, analysis, evaluation, or any other similar activities under subparagraph 1;
3. A creative, identical layout-design produced by a person who is not the holder of a layout-design right.

(2) The effects of a layout-design right under Article 8 shall not extend to any person who engages in an activity specified in subparagraph 4 (c) of Article 2 for profit with any semiconductor integrated circuit or similar product legally manufactured and delivered to him/her.

(3) The effects of a layout-design right under Article 8 shall not extend to any person who has accepted, in good faith and without negligence on his/her part (hereinafter referred to as "bona fide person"), a semiconductor integrated circuit or similar product, manufactured by illegally reproducing a semiconductor integrated circuit or similar product registered by any other person and delivered to him/her, and who engages in an activity specified in subparagraph 4 (c) of Article 2 for profit with the semiconductor integrated circuit or similar product so delivered.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 10 (Transfer and Joint Ownership of Layout-Design Rights)

(1) Layout-design rights shall be transferable.

(2) Rights to a layout-design created jointly by two or more persons shall be jointly owned by the persons who created it, and each joint holder's share is deemed to be equal, unless any specific agreement among the joint creators exists.

(3) If a layout-design right is owned by joint owners, a joint owner shall not transfer his/her share nor pledge his/her share, without the other joint holders' consent.

(4) If a layout-design right is owned by joint owners, each joint owner has a right to use the layout-design without the other joint holders' consent, unless any specific agreement exists.

(5) If a layout-design right is owned by joint owners, a joint owner shall not grant any person an exclusive license under Article 11 (1), or a non-exclusive license under Article 12 (1), of the layout-design without the other joint owners' consent.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 11 (Exclusive Licenses)

(1) The holder of a layout-design right may grant another person a right to use the layout-design exclusively (hereinafter referred to as "exclusive license").

(2) A person who has been granted an exclusive license under paragraph (1) (hereinafter referred to as "exclusive licensee") shall have an exclusive right to use the layout-design for making a profit within the scope of the license granted.

(3) An exclusive licensee may transfer his/her exclusive license only in any of the following cases:

1. Where the exclusive license is transferred along with the business to which the layout-design has been applied;
2. Where the exclusive license is transferred by inheritance or other general succession;
3. Where the holder of the layout-design right consents to the transfer.

(4) No exclusive licensee may pledge an exclusive license without the consent of the holder of the layout-design rights.

(5) Where an exclusive license is jointly owned, a joint owner shall not grant any person a non-exclusive license under Article 12 (1) without the other joint holders' consent.

(6) Article 10 (3) and (4) shall apply mutatis mutandis to an exclusive license. In such cases, the term "layout-design right" therein shall be construed as "exclusive license".

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 12 (Non-Exclusive Licenses)

(1) The holder of a layout-design right or an exclusive licensee for a layout-design may grant another person a right to use the layout-design (hereinafter referred to as "non-exclusive license"): Provided, That an exclusive licensee who intends to grant another person a non-exclusive license shall obtain consent from the holder of the layout-design right.

(2) A person who has been granted a non-exclusive license under paragraph (1) (hereinafter referred to as "non-exclusive licensee") shall have a right to use the layout-design for making a profit within the scope of the license granted.

(3) A non-exclusive licensee may transfer his/her non-exclusive license only in any of the following cases:

1. Where the non-exclusive license is transferred along with the business to which the layout-design has been applied;
2. Where the non-exclusive license is transferred by inheritance or other general succession;
3. Where the holder of the layout-design right (referring to the holder of the layout-design right and the exclusive licensee, if the license is a non-exclusive license granted by the exclusive licensee; hereafter the same shall apply in this Article) consents to the transfer.

(4) No non-exclusive licensee may pledge his/her non-exclusive license without the consent of the holder of the layout-design right.

(5) Article 10 (3) and (4) shall apply mutatis mutandis to a non-exclusive license. In such cases, the term "layout-design right" shall be construed as "non-exclusive license".

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 13 (Award for Grant of Non-Exclusive Licenses)

(1) Any person who intends to use a layout-design, the establishment of which has been registered pursuant to Article 21 (1), may request the holder of the layout-design right or the exclusive licensee for the layout-design to negotiate with him/her for the grant of a non-exclusive license, if the layout-design falls under any of the following subparagraphs:

1. Where the layout-design has not been used in the Republic of Korea for two consecutive years or longer without any natural disaster or force majeure or any justifiable ground specified by Presidential Decree;
2. Where the layout-design has not been used in the Republic of Korea for a considerable scale of business for two consecutive years or longer or the layout-design has failed to meet demand, domestic and overseas, at an appropriate level and under proper conditions, without any justifiable ground.

(2) A person who has requested negotiations under paragraph (1) may file an application for award on the establishment of a non-exclusive license with the Commissioner of the Korean Intellectual Property Office, where it is impossible to have negotiations under paragraph (1) within a reasonable period of time although the person has offered reasonable conditions that may occur in ordinary commercial transactions, or where the person fails to reach an agreement on the grant of a non-exclusive license after negotiations.

(3) Notwithstanding paragraphs (1) and (2), any person who intends to use a layout-design, the establishment of which has been registered pursuant to Article 21 (1), may file an application for award for a non-exclusive license directly with the Commissioner of the Korean Intellectual Property Office, where a national emergency or any other urgent situation occurs.

(4) The Commissioner of the Korean Intellectual Property Office may, if it is found that an application for award under paragraph (2) or (3) falls under any of the following subparagraphs, make an award to the grant of a non-exclusive license (hereinafter referred to as "award") to the applicant, after undergoing deliberation by the Committee for Deliberation and Conciliation on Layout-Designs under Article 25:

1. Where the use of the layout-design is necessary to meet domestic demand, not for a commercial purpose, but for the public interest;
2. Where there arises a ground specified by Presidential Decree to secure free competition and prevent any holder of a layout-design right or any exclusive licensee for a layout-design from abusing his/her right.

(5) An award shall be made in writing, clearly stating the following matters:

1. The scope of a non-exclusive license;
2. The consideration for the license and the method and deadline for the payment of the consideration.

(6) Matters necessary for the procedure for filing an application for award under paragraphs (2) and (3) and other matters shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 14 (Lapse of Award)

An award shall lose its effect if a person for whom the award was made fails to pay or deposit the consideration (referring to the first instalment, if the person is to pay the consideration on a periodic basis or in instalments) on or before the deadline for payment under Article 13 (5) 2.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 15 (Cancellation of Award)

(1) The Commissioner of the Korean Intellectual Property Office may, in his/her discretion or upon receiving an application from an interested party, cancel an award in any of the following cases:

1. Where a person for whom the award was made has not used the layout-design;
2. Where the ground for the award under the subparagraphs of Article 13 (4) has disappeared and such ground is not likely to recur.

(2) Once an award is cancelled pursuant to paragraph (1), the relevant non-exclusive license shall terminate on the date of its cancellation.

(3) Matters necessary for the procedure for the cancellation of an award under paragraph (1) and other relevant matters shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 16 (Pledge)

(1) Where a pledge is established for a layout-design right or an exclusive or non-exclusive license for a layout-design, no pledgee of a layout-design right shall use the layout-design, unless any special agreement exists.

(2) A pledge over a layout-design right or an exclusive or non-exclusive license for a layout-design may be exercised against money or any other goods that the holder of the layout-design right or the exclusive or non-exclusive licensee for the layout-design (including a person to whom a non-exclusive license has been granted pursuant to Article 13 (4); hereinafter the same shall apply) is entitled to receive as compensation under this Act or in consideration for the use of the layout-design. In such cases, the compensation, money, or goods shall be placed under attachment before the compensation or money is paid or the goods are delivered.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 17 (Extinguishment of Layout-Design Rights)

A layout-design right shall be extinguished in any of the following cases:

1. Where a corporation or an organization that is the holder of a layout-design right is dissolved, and the layout-design right escheats to the State pursuant to the Civil Act or any other Act;

2. Where an individual who is the holder of a layout-design right dies without any inheritor and the layout-design right escheats to the State pursuant to the Civil Act or any other Act.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 18 (Restriction on Abandonment, etc. of Layout-Design Rights, etc.)

(1) No holder of a layout-design right may abandon his/her layout-design right without the consent from exclusive and non-exclusive licensees (excluding a person to whom a non-exclusive license has been granted pursuant to Article 13 (4)) and pledgees under Article 16 (1).

(2) No exclusive licensee may abandon his/her exclusive license without the consent from persons to whom the exclusive licensee granted a non-exclusive license, or from pledgees thereof.

(3) No non-exclusive licensee may abandon his/her non-exclusive license without the consent from pledgees thereof.

(4) Once a layout-design right or an exclusive or non-exclusive license is abandoned, the right thereto shall be immediately extinguished thereafter.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

CHAPTER III REGISTRATION OF LAYOUT-DESIGN RIGHTS

Article 19 (Application for Registration of Establishment of Layout-Design Rights)

(1) Any person who has created a layout-design or his/her successor (hereinafter referred to as "creator") may file an application to register the establishment of the layout-design right with the Commissioner of the Korean Intellectual Property Office within two years from the day on which the layout-design was initially used for making a profit.

(2) Any person who intends to file an application to register the establishment of a layout-design right pursuant to paragraph (1) shall submit an application form for the registration of the establishment and other accompanying documents (hereinafter referred to as "application form, etc."), as prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 20 (Rejection of Application for Registration of Establishment)

(1) The Commissioner of the Korean Intellectual Property Office shall reject an application filed to register the establishment of a layout-design right if the application falls under any of the following:

1. Where the applicant is not the creator;
2. Where the layout-design right is jointly owned by two or more persons, but the application has not been filed jointly by all the joint owners;
3. Where the period under Article 19 (1) has elapsed;
4. Where the application falls under any other cases prescribed by Presidential Decree, such as the case where the applicant fails to submit accompanying documents necessary for the application for the registration of the establishment of a layout-design right.

(2) The Commissioner of the Korean Intellectual Property Office shall, when he/she rejects an application pursuant to paragraph (1), immediately notify the applicant, in writing, of the grounds therefor in detail.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 21 (Registration of Establishment and Public Notice)

(1) The Commissioner of the Korean Intellectual Property Office shall, upon receiving an application to register the establishment of a layout-design right pursuant to Article 19 (1), register the establishment of the layout-design, unless the application is rejected pursuant to Article 20 (1).

(2) The registration of the establishment under paragraph (1) shall be completed when the Commissioner of the Korean Intellectual Property Office records it in the original register of layout-designs.

(3) The Commissioner of the Korean Intellectual Property Office shall, when he/she has completed the registration of the establishment under paragraph (1), issue a certificate of layout-design registration to the holder of the layout-design right and issue public notice thereof.

(4) Necessary matters concerning the registration of the establishment of layout-designs, such as the details to be stated in an application to register the establishment of a layout-design right, the issuance of a certificate of layout-design registration, the public notification of registered matters of a layout-design, details entered in the original register of layout-designs, and the request for the inspection of the original register of a layout-design and the issuance of a copy thereof, shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 22 (Indication of Registration)

Any holder of a layout-design or any exclusive or non-exclusive licensee may indicate the registration of the layout-design on semiconductor integrated circuits manufactured by using the layout-design, packaging thereof, etc., as prescribed by the Commissioner of the Korean Intellectual Property Office.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 23 (Effects of Registration)

(1) None of the following matters may be asserted against a third party, unless it is registered with the Commissioner of the Korean Intellectual Property Office:

1. A restriction on the transfer (excluding the transfer by inheritance or other general succession; hereafter the same shall apply in this Article) or disposal of a layout-design right;
2. A restriction on the establishment, transfer, modification, extinguishment, or disposal of an exclusive license;
3. A restriction on the establishment, transfer, modification, extinguishment, or disposal of a non-exclusive license;
4. A restriction on the establishment, transfer, modification, extinguishment, or disposal of a pledge for a layout-design right or an exclusive or non-exclusive license.

(2) A non-exclusive license registered with the Commissioner of the Korean Intellectual Property Office shall be effective against any person who acquires the relevant layout-design right or an exclusive license for the relevant layout-design after the non-exclusive license was registered.

(3) Registration under paragraphs (1) and (2) shall be completed when the Commissioner of the Korean Intellectual Property Office records it on the original register of layout-designs.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 24 (Cancellation of Registered Establishment of Layout-Design Rights)

The Commissioner of the Korean Intellectual Property Office may, if a layout-design, the establishment of which has been registered, falls under any of the following subparagraphs, cancel the registration of establishment: Provided, That the Commissioner shall cancel the registration of establishment falling under subparagraph 2 or 4:

1. Where a layout-design has violated a treaty under Article 3 (1);
2. Where the registration of the establishment under Article 21 (1) has been registered by deceit or any other fraudulent means;
3. Where a layout-design, the establishment of which has been registered, is not a creative layout-design prescribed under Article 6;
4. Where a layout-design falls under any of Article 20 (1) 1 through 3.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

CHAPTER IV COMMITTEE FOR DELIBERATION AND CONCILIATION ON LAYOUT-DESIGNS

Article 25 (Committee for Deliberation and Conciliation on Layout-Designs)

(1) A Committee for Deliberation and Conciliation on Layout-Designs (hereinafter referred to as the "Committee") shall be established for deliberation on matters concerning layout-design rights and exclusive and non-exclusive licenses and for the conciliation of disputes arising in connection with rights and interests protected by this Act (hereinafter referred to as "disputes").

(2) The Committee shall be comprised of not less than 10, but not more than 15, deliberators and conciliators (hereinafter referred to as "committee members"), including one Chairperson and one Vice-Chairperson.

(3) Committee members shall be commissioned by the Commissioner of the Korean Intellectual Property Office, and the Chairperson and Vice-Chairperson shall be elected by and from among committee members.

(4) The term of office of each committee member shall be three years but may be renewed consecutively.

(5) If a vacancy arises among committee members, such vacancy shall be filled by commissioning a person as a committee member for replacement in accordance with paragraph (3), and the term of office of a committee member commissioned to fill a vacancy shall be his/her predecessor's remaining term: Provided, That if the number of remaining committee members is no less than 10, the commission of a committee member to fill a vacancy may be waived.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 26 (Functions of Committee)

The Committee shall deliberate on the following matters, in addition to the conciliation of disputes:

1. Matters concerning awards under Article 13 (4) hereof and the cancellation of awards under Article 15;
2. Matters concerning objections against the cancellation of registration of establishment under Article 24;
3. Matters that the Commissioner of the Korean Intellectual Property Office or three or more committee members jointly refer to deliberation.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 27 (Procedure for Conciliation)

(1) Any person who intends seek the conciliation of a dispute may file a petition for conciliation with the Committee, clearly stating the purport and grounds for the petition.

(2) The Committee shall conciliate a dispute within six months from the date when the petition therefor under paragraph (1) is filed.

(3) The Judicial Conciliation of Civil Disputes Act shall apply mutatis mutandis to the procedure for conciliation by the Committee, except as otherwise specifically provided for by this Act.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 28 (Conciliation Panel)

The Committee shall have a conciliation panel, comprised of three committee members, in order for the Committee to conciliate disputes in an efficient manner, and at least one member of the panel shall be qualified as an attorney-at-law or a patent attorney.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 29 (Conclusion of Conciliations)

(1) A dispute is concluded by conciliation when a record on matters agreed between parties is finally prepared.

(2) The record under paragraph (1) shall have the same effect as settlement in court: Provided, That this shall not apply to the matters of which parties to a case are not allowed to make a disposition in their discretion.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 30 (Failure of Conciliations)

Conciliation shall be deemed a failure where any of the following grounds arises:

1. Where either party has not complied with a request from the Committee for appearance or submission of relevant documents on two or more occasions without justifiable grounds;
2. Where the period under Article 27 (2) has elapsed.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 31 (Conciliation Expenses)

(1) Expenses for conciliation shall be borne by the petitioner and shall be paid in advance when the petition for conciliation is filed: Provided, That when conciliation is successfully concluded, each party shall pay an equal share of the expenses, unless any special agreement exists.

(2) The amount of conciliation expenses under paragraph (1) shall be determined by the Committee.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 32 (Suspension, etc. of Extinctive Prescription)

(1) A petition for conciliation shall have the effect of suspending prescription.

(2) If no lawsuit is filed within one month after it was finally confirmed that conciliation was unsuccessful, conciliation shall have no effect of suspending prescription.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 33 (Organization, etc. of Committee)

The organization and operation of the Committee and other matters necessary for the Committee shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 34 (Subsidies for Expenses)

The State may subsidize expenses incurred in the operation of the Committee within budget limits.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

CHAPTER V REMEDIES FOR INFRINGEMENTS

Article 35 (Demands to Cease, etc. from Infringement)

(1) The holder of a layout-design right or any exclusive licensee for a layout-design may demand a person who has infringed or is likely to infringe on his/her layout-design right or exclusive license to cease such infringement or take preventive measures.

(2) The holder of a layout-design right or the exclusive licensee for a layout-design may, when he/she makes a demand under paragraph (1), also demand to destroy semiconductor integrated circuits or similar products already produced by way of infringement or to take any other measures for preventing such infringement.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 36 (Claims for Damages)

(1) The holder of a layout-design right or the exclusive licensee of a layout-design may claim any person who infringes on his/her right by intent or negligence to compensate his/her losses.

(2) Where the holder of a layout-design right or the exclusive licensee of a layout-design makes a claim against a person who has made a profit by way of infringement on his/her right under paragraph (1), such profit is presumed to be the losses sustained by the holder of the layout-design right or the exclusive licensee of the layout-design.

(3) The holder of a layout-design right or the exclusive licensee for a layout-design may, when he/she makes a claim under paragraph (1), demand to pay an amount that he/she can generally charge for the use of the layout-design as the losses sustained by the holder of the layout-design right or the exclusive licensee for the layout-design.

(4) If losses exceed the amount specified in paragraph (3), such excess amount may also be claimed.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 37 (Compensation)

(1) The creator of a layout-design who had used the layout-design for making a profit before the establishment of the layout-design was registered may claim any person who used a reproduction of the layout-design for making a profit after the creator's use, but before the registration of the

layout-design was completed, knowing that it was a reproduction, to pay compensation equivalent to an amount that the person is generally obligated to pay for such use: Provided, That the payment of such compensation may not be claimed against a person who has received, in good faith and without negligence on his/her part, a semiconductor integrated circuit or similar product manufactured and delivered by using a reproduction of the layout-design.

(2) The right to claim the payment of compensation under paragraph (1) may not be exercised until and unless the establishment of the relevant layout-design is registered.

(3) If a registered establishment of a layout-design is cancelled pursuant to Article 24, it is deemed that the right to claim the payment of compensation under paragraph (1) had never arisen from the beginning.

(4) Articles 760 (1) and (2) and 766 of the Civil Act shall apply mutatis mutandis to the exercise of a claim under paragraph (1). In such cases, "date on which the injured party or his agent by law becomes aware of such damage and of the identity of the person who caused it" in Article 766 of the Civil Act shall be deemed "date for registering the establishment of such layout-design", if the holder of the right to claim was aware of the fact that the layout-design had been reproduced before the establishment of the layout-design was registered and who used the reproduced layout-design.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 38 (Claims for Royalties against Bona Fide Persons)

(1) If a bona fide person commits an act specified in subparagraph 4 (c) of Article 2 with a semiconductor integrated circuit or similar product, or keeps or carries a semiconductor integrated circuit or similar product with intent to commit such act, even after the person becomes aware that the semiconductor integrated circuit or similar product was manufactured by illegally reproducing a layout-design, the holder of the layout-design right or the exclusive licensee for the layout-design may demand the person to pay an amount equivalent to ordinary royalties (hereinafter referred to as "royalties"), notwithstanding Article 9 (3).

(2) Royalties shall be a reasonable amount fixed by an agreement between the holder of the relevant layout-design right or the exclusive license for the layout-design and a bona fide person.

(3) Articles 760 (1) and (2) and 766 of the Civil Act shall apply mutatis mutandis to the exercise of a right to claim under paragraph (1).

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

CHAPTER VI SUPPLEMENTARY PROVISIONS

Article 39 (Hearings)

The Commissioner of the Korean Intellectual Property Office shall hold a hearing, whenever he/she intends to make any of the following dispositions:

1. Cancellation of an award under Article 15 (1);
2. Cancellation of the registered establishment of a layout-design right under Article 24.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 40 (Fees)

(1) A person in the following shall pay fees:

1. A person who intends to file a petition for award on a non-exclusive license pursuant to Article 13 (2) or (3) or a person who intends to file an application for the cancellation of an award pursuant to Article 15 (1);
2. A person who intends to file to register the establishment of a layout-design pursuant to Article 21 (1);
3. A person who intends to file for the registration under Article 23 (1) or (2);
4. A person who intends to file an objection against the cancellation of registered establishment of a layout-design pursuant to Article 24;
5. A person who intends to file an application for the issuance of any certificate for a layout-design.

(2) The items and amounts of fees under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 40-2 (Abatement or Exemption of Fees on Registering Creation)

(1) Notwithstanding Article 40 (1), the Commissioner of the Korean Intellectual Property Office may abate or exempt the fees on registering establishment of layout-design rights, as prescribed by Ordinance of the Ministry of Knowledge Economy, if a person specified by Ordinance of the Ministry of Knowledge Economy, such as a medium or small enterprise, files an application to register the establishment of a layout-design right.

(2) A person who intends to have the fees on registering the establishment of a layout-design right abated or exempted pursuant to paragraph (1) shall submit to the Commissioner of the Korean Intellectual Property Office the documents specified by Ordinance of the Ministry of Knowledge Economy.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 40-3 (Refunds of Fees Mistakenly Paid)

(1) Fees already paid shall not be refundable: Provided, That fees mistakenly paid shall be refunded to the payer upon his/her request.

(2) The Commissioner of the Korean Intellectual Property Office shall, if he/she discovers that any fees have been mistakenly paid, notify the payer of such fact.

(3) No one may claim a refund under the proviso to paragraph (1), if three years have passed since a notice under paragraph (1) was served to him/her.

[This Article Newly Inserted by Act No. 9183, Dec. 26, 2008]

Article 41 (Judicial Jurisdiction over Overseas Residents)

With regard to overseas residents' layout-design rights, the address or place of business of a layout-design administrator shall be deemed the location of property under Article 11 of the Civil Procedure Act if a layout-design administrator has been appointed, while the location of the Supreme Court shall be deemed the location of property if no layout-design administrator has been appointed.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 42 Deleted. <by Act No. 5599, Dec. 28, 1998>

Article 43 (Fostering of Layout-Design Technology)

(1) The Commissioner of the Korean Intellectual Property Office shall establish policies necessary to improve technology for domestic layout-designs and to promote development of such products and prepare supportive measures in taxation, finance, and administration.

(2) The Commissioner of the Korean Intellectual Property Office may support and foster any research institute or organization that promotes technology and trains personnel for layout-design.
[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 44 (Duty of Confidentiality)

A public official who is or has ever been in charge of the registration of layout-designs under Articles 19 through 24 or a person who is or has ever been a committee member under Article 25 (2) shall not divulge to others any secret he/she has learned in the course of performing his/her duties.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

CHAPTER VII PENAL PROVISIONS

Article 45 (Offense of Infringement, etc.)

(1) Any person who infringes on a layout-design right or an exclusive license shall be punished by imprisonment for not more than three years or by a fine not exceeding 50 million won, or by both.

(2) An offense under paragraph (1) may be prosecuted only when a criminal complaint is filed.
[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 46 (Offense of False Indication)

Any person who falsely indicates the registration mark under Article 22 on a semiconductor integrated circuit manufactured by using a layout-design, the establishment of which has not been registered in accordance with Article 21 (1), or on any package thereof, or any person who assigns or leases to anyone a semiconductor integrated circuit with a false registration mark thereon shall be punished by imprisonment for not more than one year or by a fine not exceeding three million won.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 47 (Offense of Fraud)

Any person who files for registration of establishment under Article 21 (1) by deceit or in any other fraudulent manner shall be punished by imprisonment for not more than one year or by a fine not exceeding three million won.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 48 (Offense of Divulging Secrets)

Any person who divulges a secret in violation of Article 44 shall be punished by imprisonment for not more than five years or by a fine not exceeding 50 million won.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

Article 49 (Joint Penal Provisions)

Where a representative of a juristic person, or an agent, employee or other servant of a juristic person or an individual commits an offense under Article 45 (1), 46, or 47 in connection with the business of the juristic person or the individual, not only shall such violator be punished, but also the juristic person or the individual shall be punished by a fine under the relevant provisions: Provided, That this shall not apply where the juristic person or the individual has not neglected to pay due attention and supervision concerning the relevant business in order to prevent such violation.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

ADDENDA

(1) (Enforcement Date) This Act shall enter into force within one year after the date of its promulgation, and the date shall be prescribed by Presidential Decree.

[Enforced on Sep. 1, 1993 under Presidential Decree No. 13972, dated Aug. 31, 1993]

(2) (Applicability) This Act shall not apply to layout-designs established before this Act enters into force.

ADDENDUM <Act No. 4890, Jan. 5, 1995>

This Act shall enter into force on July 1, 1995.

ADDENDA <Act No. 5453, Dec. 13, 1997>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

Article 2 Omitted.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDUM <Act No. 5599, Dec. 28, 1998>

This Act shall enter into force on January 1, 1999.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 8397, Apr. 27, 2007>

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Applicability to Reduction or Exemption of Fee for Registration of Establishment) The amended provisions of Article 40-2 shall apply beginning from the first application for registering the establishment of a layout-design right made after this Act enters into force.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 9183, Dec. 26, 2008>

This Act shall enter into force three months after the date of its promulgation.