

**Congress of the Philippines
Eleventh Congress**

REPUBLIC ACT NO. 9150 August 06, 2001

AN ACT PROVIDING FOR THE PROTECTION OF LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS THE INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1, Sections 112, 113, 114, 116, 117, 118, 119 and 120 under Chapter XIII of R.A. No. 8293 are hereby amended to read as follows:

**"CHAPTER XIII
"INDUSTRIAL DESIGN AND LAYOUT DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS**

"SEC. 112. *Definition of Terms:*"

"1. An *Industrial Design* is any composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors: *Provided*, That such composition or form gives a special appearance to and can serve as pattern for an industrial product or handicraft;

"2. *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; and

"3. *Layout-Design* is synonymous With 'Topography' and 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."

"SEC. 113. *Substantive Conditions/or Protection.* - 113.1. Only industrial designs that are new or ornamental shall benefit from protection under this Act.

"113.2. Industrial designs dictated essentially by technical or functional considerations to obtain a technical result or those that are contrary to public order, health or morals shall not be protected.

"113.3. Only layout -designs of integrated circuits that are original shall benefit from protection under this Act. A layout-design shall be considered original if it is the result of its creator's own intellectual effort and is not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of its creation.

"113.4. A layout-design consisting of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, is original."

"SEC.114. *Contents of the Application.* - 114.1. Every application for registration of an industrial design or layout-design shall contain:

"(a) A request for registration of the industrial design or layout-design;

"(b) Information identifying the applicant;

"(c) An indication of the kind of article of manufacture or handicraft to which the industrial design or layout-design shall be applied;

"(d) A representation of the article of manufacture or handicraft by way of drawings, photographs or adequate graphic representation of the industrial design or of the layout-design as applied to the article of manufacture or handicraft which clearly and fully discloses those features for which protection is claimed; and

"(e) The name and address of the creator, or where the applicant is not the creator, a statement indicating the origin of the right to the industrial design or layout-design registration.

"114.2. The application may be accompanied by a specimen of the article embodying the industrial design or layout-design and shall be subject to the payment of the prescribed fee."

"SEC.116. *Examination.* - 116.1. The Office shall accord as the filing date the date of receipt of the application containing indications allowing the identity of the applicant to be established and a representation of the article embodying the industrial design or the layout -design or a pictorial representation thereof.

"116.2. If the application does not meet these requirements, the filing date should be that date when all the elements specified in Sec. 114 are filed or the mistakes corrected. Otherwise, if the requirements are not complied within the prescribed period, the application shall be considered withdrawn.

"116.3. After the application has been accorded a filing date and the required fees paid on time, the applicant shall comply with the requirements of Sec. 114 within the prescribed period, otherwise the application shall be considered withdrawn.

"116.4. The Office shall examine whether the industrial design or layout-design complies with requirements of Sec. 112 (Definitions) and Sec. 113 (Substantive Conditions for Protection)."

"SEC. 117, *Registration.* - 117.1. Where the Office finds that the conditions referred to in Sec. 113 are fulfilled, it shall order that registration be effected in the industrial design or layout-design register and cause the issuance of an industrial design or layout-design certificate of registration; otherwise, it shall refuse the application.

" 117.2. The form and contents of an industrial design or layout-design certificate shall be established by the Registrations: *Provided*, That the name and address of the creator shall be mentioned in every case.

" 117.3. Registration shall be published in the form and within the period fixed by the Regulations.

" 117.4. The Office shall record in the register any change in the identity of the proprietor of the industrial design or layout design or his representative, if proof thereof is furnished to it. A fee shall be paid, with the request to record the change in the identity of the proprietor, if the fee is not paid, the request shall be deemed not to have been filed. In such case, the former proprietor and the former representative shall remain subject to the rights and obligations as provided in this Act.

" 117.5. Anyone may inspect the Register and the files of registered industrial designs or layout-designs including files of cancellation proceedings."

"SEC. 118. *The Term of Industrial Design or Layout-Design Registration.* - 118.1. The registration of an industrial design shall be for a period of five (5) years from the filing date of the application.

" 118.2. The registration of an industrial design may be renewed for not more than two (2) consecutive periods of five (5) years each, by paying the renewal fee.

"118.3. The renewal fee shall be paid within twelve (12) months preceding the expiration of the period of registration. However, a grace period of six (6) months shall be granted for payment of the fees after such expiration, upon payment of a surcharge.

"118.4. The Regulations shall fix the amount of renewal fee, the surcharge and other requirements regarding the recording of renewals of registration.

" 118.5. Registration of a layout-design shall be valid for a period often (10) years, without renewal, and such validity to be counted from the date of commencement of the protection accorded to the layout-design. The protection of a layout-design under this Act shall commence:

"a) on the date of the first commercial exploitation, anywhere in the world, of the layout-design by or with the consent of the right holder: *Provided*, That an application for registration is filed with the Intellectual Property Office within two (2) years from such date of first commercial exploitation; or

"b) on the filing date accorded to the application for the registration of the layout-design if the layout-design has not been previously exploited commercially anywhere in the world."

"SEC. 119. *Application of Other Sections and Chapters.* - 119.1. The following provisions relating to patents shall apply *mutatis mutandis* to an industrial design registration.

"SECTION21 - Novelty;

"SECTION 24 - Prior art: *Provided*, That the disclosure is contained in printed documents or in any tangible form;

"SECTION 25 - Non-prejudicial Disclosure;

"SECTION 28 - Right to a Patent;

"SECTION 29 - First to File Rule;

"SECTION 30 - Inventions Created Pursuant to a Commission;

"SECTION 31 - Right of Priority: *Provided*, That the application for industrial design shall be filed within six (6) months from the earliest filing date of the corresponding foreign application;

"SECTION 33 - Appointment of Agent or Representative;

"SECTION 51 - Refusal of the Application;

"SECTION 56 to 60 - Surrender, Correction of and Changes in Patent;

CHAPTER VII - Remedies of a Person with a Right to Patent;

CHAPTER VIII - Rights of Patentees and Infringement of Patents; and

"CHAPTER XI - Assignment and Transmission of Rights

"119.2. If the essential elements of an industrial design which is the subject of an application have been obtained from the creation of another person without his consent, protection under this Chapter cannot be invoked against the injured party.

"119.3. The following provisions relating to patents shall apply *mutatis mutandis* to a layout -design of integrated circuits registration:

"SECTION 28 - Right to a Patent;

"SECTION 29 - First to File Rule;

"SECTION 30 - Inventions Created Pursuant to a Commission;

"SECTION 33 - Appointment of Agent or Representative;

"SECTION 56 - Surrender of Patent;

"SECTION 57 - Correction of Mistakes of the Office;

"SECTION 58 - Correction of Mistakes in the Application;

"SECTION 59 - Changes in Patents;

"SECTION 60 - Form and Publication of Amendment;

"CHAPTER VII - Remedies of a Person with a Right to Patent;

"CHAPTER VIII - Rights of Patentees and Infringement of Patents: *Provided*, That the layout-design rights and limitation of layout-design rights provided hereunder shall govern:

"CHAPTER X - Compulsory Licensing;

"CHAPTER XI - Assignment and Transmission of Rights

"119.4. *Rights Conferred to the Owner of a Layout-Design Registration.* - The owner of a layout-design registration shall enjoy the following rights:

"(1) to reproduce, whether by incorporation in an integrated circuit or otherwise, the registered layout-design in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality; and

"(2) to sell or otherwise distribute for commercial purposes the registered layout design, an article or an integrated circuit in which the registered layout-design is incorporated.

"119.5. *Limitations of Layout Rights.* - The owner of a layout design has no right to prevent third parties from reproducing, selling or otherwise distributing for commercial purposes the registered layout-design in the following circumstances:

"(1) Reproduction of the registered layout-design for private purposes or for the sole purpose of evaluation, analysis, research or teaching;

"(2) Where the act is performed in respect of a layout-design created on the basis of such analysis or evaluation and which is itself original in the meaning as provided herein;

"(3) Where the act is performed in respect of a registered lay-out-design, or in respect of an integrated circuit in which such a layout-design is incorporated, that has been put on the market by or with the consent of the right holder;

"(4) In respect of an integrated circuit where the person performing or ordering such an act did not know and had no reasonable ground to know when acquiring the integrated circuit or the article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design: *Provided, however*, That after the time that such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the said acts only with respect to the stock on hand or ordered before such time and shall be liable to pay to the right holder a sum equivalent to at least 5% of net sales or such other reasonable royalty as would be payable under a freely negotiated license in respect of such layout-design; or

"(5) Where the act is performed in respect of an identical layout-design which is original and has been created independently by a third party."

"SEC. 120. *Cancellation of Design Registration.* - 120.1. At any time during the term of the industrial design registration, any person upon payment of the required fee, may petition the Director of Legal Affairs to cancel the industrial design on any of the following grounds:

"(a) If the subject matter of the industrial design is not registerable within the terms of Sections 112 and 113;

"(b) If the subject matter is not new; or "(c) If the subject matter of the industrial design extends beyond the content of the applic.'1tion as originally filed.

"120.2. Where the grounds for cancellation relate to a part of the industrial design, cancellation may be effected to such extent only. The restriction may be effected in the form of an alteration of the effected features of the design.

"120.3. *Grounds for Cancellation of Layout-Design of Integrated Circuits.*- Any interested person may petition that the registration of a layout-design be cancelled on the ground that:

"(i) the layout-design is not protectable under this Act;

"(ii) the right holder is not entitled to protection under this Act; or

"(iii) where the application for registration of the layout-design, was not filed within two (2) years from its first commercial exploitation anywhere in the world.

"Where the grounds for cancellation are established with respect only to a part of the layout-design, only the corresponding part of the registration shall be cancelled.

"Any cancelled layout-design registration or part thereof, shall be regarded as null and void from the beginning and may be expunged from the records of the Intellectual Property Office. Reference to all cancelled layout-design registration shall be published in the IPO Gazette."

Section 2. *Implementing Rules and Regulations.* - The Intellectual Property Office may issue Regulations prescribing details for the implementation of this law. The Regulations may, in particular, provide for the payment of fees in connection with applications for the registration of layout-designs of integrated circuits and matters related thereto, including Administrative Instructions relating to the procedures and other functions of the responsible until duly designated by the Director General.

Section 3. *Applicability.* - The provisions of this Act shall apply to layout-designs of integrated circuits that were commercially exploited anywhere in the world from and after January 1998 provided they meet the conditions for protection under this Act.

Section 4. *Repealing Clause.* - All acts and parts of acts inconsistent herewith are hereby repealed or amended accordingly.

Section 5. Separability Clause. - If any provision of this Act or the application of such provision to any circumstance is held invalid, the remainder of this Act shall not be affected thereby.

Section 6. Effectivity. - This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,

(Sgd)

AQUILINO Q. PIMENTEL JR.
President of the Senate

(Sgd)

FELICIANO BELMONTE JR.
Speaker of the House of Representatives

(Sgd)

LUTGARDO B. BARBO
Secretary of the Senate

(Sgd)

ROBERTO P. NAZARENO
Secretary General
House of Representatives

Approved: August 06, 2001

(Sgd)

GLORIA MACAPAGAL-ARROYO
President of the Philippines