

Layout Design for Integrated Circuits Semiconductor

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Introduction-

The aim of the Semiconductor Integrated Circuits Layout-Design Act, 2000 is to provide protection of Intellectual Property Right (IPR) in the area of Semiconductor Integrated Circuit Layout Designs and for matters connected therewith or incidental thereto.

The main focus of SICLD Act is to provide for routes and mechanism for protection of IPR in Chip Layout Designs created and matters related to it.

The SICLD Act empowers the registered proprietor of the layout-design an inherent right to use the layout-design, commercially exploit it and obtain relief in respect of any infringement. The initial term of registration is for 10 years; thereafter it may be renewed from time to time.

Department of Information Technology Ministry of Communications and Information Technology is the administrative ministry looking after its registration and other matters.

- *Integrated Circuit* means a product having transistors and other circuitry elements, which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function.
- *'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.
- *'Semiconductor integrated circuit'* means a product having transistors or other circuitry elements which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function.
- *'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.

Application of the Act-

The Act provides protection to a layout design expressed in any manner, subject to the following conditions-

- It is original
- It has not been commercially exploited for more than 2 years from the date of application for the registration.
- It is inherently distinctive and capable of being distinguishable from any other registered layout design

Who can obtain the protection under the Act-

The application for the protection of layout design can be made in writing to the registrar in the prescribed manner by the person who is-

- The creator of the layout design
- His legal representative
- A person registered in the prescribed manner as a layout design agent
- A person in the sole and regular employment of the principal
- Other registered users-
 - ❖ A person may be registered as a registered user of the layout design when the registered proprietor and the proposed registered user apply jointly in writing to the Registrar. The application shall accompany the agreement in writing or its authenticated copy, entered between the registered proprietor and registered user. The registered proprietor also has to submit an affidavit to the satisfaction of the Registrar.
 - ❖ A person who becomes entitled by assignment or transmission to a registered layout design shall apply to the Registrar in the prescribed manner to registered title. The Registrar on the proof of his title to his satisfaction register him as the proprietor of the layout design.

The application can be filed either alone or jointly.

The application has to be filed within the territorial limits that is a principal place of business in India of the applicant.

Protection against Infringement-

Following acts constitute the act of infringement under the act-

- Reproducing
- Selling
- Importing
- Distributing of integrated circuit layout design for commercial purposes

However, where such act is performed for the purposes of scientific evaluation, analysis, research or teaching, it shall not constitute the act of infringement.

Any person who commits infringement shall be punishable with imprisonment for a term, which may extend to 3 years, or with fine which shall not be less than fifty thousand rupees but which may extend to ten lakh rupees, or with both.

Procedure for registration-

- Filing of application in writing to the registrar in the office of SICLD registry in a prescribed form along with 3 sets of drawings produced to the plotter which describes the layout design and 3 sets of photograph of masks used for the fabrication of the semiconductor integrated circuits by using of the layout design or drawings which describes the pattern of such masks.
- Acceptance of the application with acknowledgement by way of returning one copy of the application. The registrar can also withdraw the acceptance if the application is found to be prohibited for registration.
- The application is advertised in a prescribed manner within 14 days of acceptance of layout design application. If any opposition is found to the registration, then a notice is sent to the registrar in the prescribed manner within 3 months from the date of advertisement. The registrar can call for evidences to be produced by both the parties and finally give his decision.

- If the application is not opposed or the opposition has been decided in favor of the applicant, the registrar shall register the said layout design in the register of layout design and also issue a certificate sealed with the seal of the SICLD Registry.

Duration of Registration-

The registration of the layout design shall be only for the period of 10 years counted from the date of filing an application for registration or from the date of first commercial exploitation anywhere in any country, whichever is earlier.

Effect of Registration-

The registration of the layout design gives to the registered proprietor of the layout design the exclusive right to the use of the layout design and to obtain relief in respect of infringement. This right 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.

Adjudicating Authority-

- **Registrar-** The Government of India appoints a person to be known as a registrar of the SICLD. He has both administrative and legal powers.
- **Appellate Board-** Any person aggrieved by an order or decision of the Registrar may file an appeal to the Layout Design Appellate Board. The procedure and powers of the Appellate Board are that of a civil court as given under the Civil Procedure Code, 1908. The Appellate Board consists of a Chairperson, Vice-Chairperson, and such other Members as may be appointed by the Central Government.
The functions of the Appellate Board may be exercised by a Bench of the Appellate Board. A Bench shall consist of one Judicial Member and one Technical Member.

- **High Court-** If any person is not satisfied by any decision or order of the Appellate Board may file an appeal to the High Court within prescribed period and in a prescribed manner.

Summary of the provisions-

- ❖ To fulfil its obligation under the TRIPS Agreement, India brought the Semiconductor Integrated Circuits Layout-Design Act, 2000, on the Statute Books.
- ❖ The Act establishes a registry for IC layout-designs headed by a Registrar.
- ❖ Registration of a layout-design confers on the proprietor of the IP rights to sue for infringement and assign and transmit one's rights.
- ❖ For registration, a layout design has to be original, inherently distinctive and capable of being distinguishable from any other registered layout-design.
- ❖ If a layout design has been commercially exploited in India or a convention country for less than 2 years, it is treated as not having been commercially exploited, for filing an application for its registration.
- ❖ The registration application is made to the Registrar who, after processing, advertises it inviting opposition, if any. After fairly dealing with the opposition, the Registrar, registers the layout design, if the opposition is not upheld.
- ❖ A user of a registered design has also to be registered.
- ❖ Offences under the Act fall under the following categories:
 - infringement
 - falsely representing a layout-design as registered
 - improperly describing a place of business as connected with the Registry
 - falsification of entries in the Register; and offences by companies
- ❖ Abetment of acts, committed outside India, that would amount to an offence in India under the Act, can be punished.
- ❖ Any person may obtain a certified copy of any entry in the Register, or any document, paying a prescribed fee.