

Layout – Designs of Integrated Circuits

Lesson 11

KEY CONCEPTS

■ Semiconductor ■ Integrated Circuits ■ Layout Design ■ Registrar ■ Registry ■ Convention country ■ Washington Treaty ■ TRIPS Agreement ■ Assignment and transmission ■ Appellate board ■ Duration of registration ■ Effect of registration

Learning Objectives

To understand:

- The legal frame work provided for regulating the protection of semiconductor integrated circuits layout-designs in India.
- The important definitions and concepts of Semiconductor Integrated Circuits Layout-Design Act, 2000.
- The legal frame work pertaining to Semiconductor Integrated Circuits Layout-Design Act, 2000.

Lesson Outline

- Introduction
- Semiconductor Integrated Circuits Layout Design Act, 2000
- Register and conditions of registration
- Procedure for and duration of registration
- Duration of registration
- Effect of registration
- Infringement of layout-design
- Assignment and transmission
- Use of layout-design and registered users
- Appellate board
- Appeal
- Offences, penalties and procedure
- International treaties and conventions
- Case Law
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings
- Other references (Including Websites / Video Links)

INTRODUCTION

Integrated circuits – commonly known as “chips” or “micro-chips” – are the electronic circuits in which all the components (transistors, diodes and resistors) have been assembled in a certain order on the surface of a thin semiconductor material (usually silicon).

In modern technology, integrated circuits are essential elements for a wide range of electrical products, including articles of everyday use, such as watches, television sets, washing machines, and cars, as well as sophisticated computers, smart phones, and other digital devices. Developing innovative layout designs of integrated circuits is essential for the production of ever-smaller digital devices with more functions.

While the creation of a new layout-design is usually the result of an enormous investment, both in financial terms and in terms of the time required from highly qualified experts, the copying of such a layout-design may cost only a fraction of the original investment. In order to prevent unauthorized copying of layout designs and to provide incentives for investing in this field, the layout design (topography) of integrated circuits is protected under a sui generis intellectual property system.

A semiconductor layout design means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in semiconductor integrated circuits.

Concept

For the purpose of intellectual property protection, the terms “integrated circuits” and “layout design (topography)” are defined as follows:

- An “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.
- “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.
- Layout-designs of integrated circuits are also called topographies of integrated circuits or mask works of semiconductor chip products.

SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT DESIGN ACT, 2000

The Semiconductor Integrated Circuits Layout Design Act, 2000 (hereinafter referred to as ‘Act’) provides protection for semiconductor IC layout designs. Semiconductor Integrated circuits are fabricated from a complex series of layers of semiconductors, metals, dielectrics (insulators) and other materials on a substrate. The Act and Rules refer to the three dimensional configuration of these layers as an integrated circuit layout.

Under Section 6 of Trade related aspects of Intellectual Property Rights (TRIPS) Treaty of the World Trade Organization (WTO), the Member Countries have agreed to provide protection to IC layout designs, i.e., topographies of integrated circuits, to cater to legal framework of creation / protection / trading aspects of intellectual property rights of products and services by member nations. India is signatory to TRIPs Agreement. The Semiconductor Integrated Circuits Layout-Design 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.

In exercise of the powers conferred by Sub-section (1) read with Sub-section (2) of Section 96 of this Semiconductor Integrated Circuits Layout-Design Act 2000, the Rules entitled “Semiconductor Integrated Circuits Layout-Design Rules 2001” were formulated and notified in the Gazette of India Extraordinary No. 615 dated 11th December 2001. These Rules, inter alia, prescribe the procedure for registration of an original layout design of a semiconductor integrated circuit.

Need of this Act

Product life cycles are getting shorter across many industries. The time and money needed to acquire intellectual property rights, particularly patents, might be excessive compared to the lifespan of the resulting product. Since products have short life cycles and incorporate numerous technologies covered by various patents, especially when these products are miniaturised, requirements such as the necessity to designate products with “patent pending” also become impractical.

Integrated circuits are made up of many individual building blocks, each of which is patentable. A claim to an integrated circuit would need to cover hundreds or thousands of individual components because an integrated circuit has hundreds or thousands of semiconductor devices. As a result, an attempt to explain an entire integrated circuit in a patent claim could take hundreds of pages for each of the building blocks. It is not only time taking and cumbersome process but also very expensive. It is obvious that such a limited claim would offer very little defence. Getting an integrated circuit patent from the majority of patent offices around the world may take several years. Given that an integrated circuit's practical commercial life may be less than a year, this is unacceptable. Patent law is frequently an inadequate form of protection for integrated circuits due to the difficult, time-consuming process of filing and the incredibly limited protection. The existing intellectual property laws do not include integrated circuit design in any way. Design patents only cover the decorative features of a manufactured good as depicted in the drawings, not its functioning components. Since integrated circuit layout is primarily utilitarian rather than decorative, integrated circuits are typically exempt from design patent protection. Most integrated circuits cannot be protected by trade secret law because an integrated circuit layout can be reverse-engineered.

A unique protection for semiconductor integrated circuit layout-design has become important for the semiconductor industry because patent, copyright, and trade secret law cannot sufficiently protect integrated circuit design. And, the fact that protection could not be granted under neither under patents, due to high threshold of ‘novelty’ requirements, nor in copyright, which is too general to accommodate such kinds of scientific creations. Due to this reason an altogether new law called ‘Semiconductor Integrated Circuits Layout Designs Act, 2000’ was enacted by the Indian Government.

History

Since the beginning of the 1970s, chip pirates have created replicas of semiconductor chips at a fraction of the cost by duplicating chip designs and skipping the pricey research and development stage. This issue was particularly severe in the US, since the IC layout, which cost millions of dollars to design and develop, had almost little intellectual property protection up until 1984. As a result, the makers of ICs sought a unique type of IP protection for this essential component of contemporary technology.

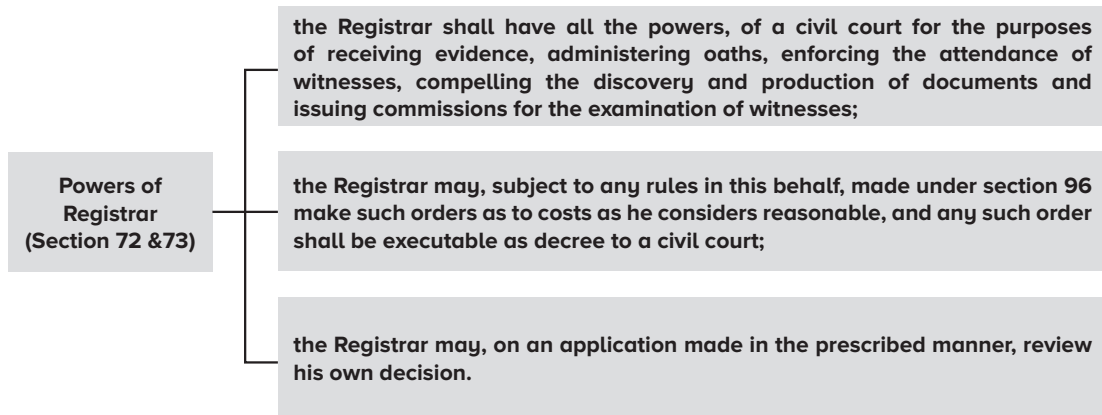
Chip piracy, which threatened to undermine the viability of the semiconductor industry, was the primary cause of the necessity for a sui generis type of protection. Chip counterfeiters could sell similar chips for less money than the original manufacturers. Due to price cuts made by legitimate chip research and development companies to compete with counterfeit products, the next generation of chips could not be developed by legitimate companies due to a lack of funding. A sui generis form of protection was introduced because legitimate businesses could not obtain sufficient chip protection under the terms of trade secret, copyright, or patent law.

THE REGISTER AND CONDITIONS OF REGISTRATION

Registrar of Semiconductor Integrated Circuits Layout-Design

The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Registrar of Semiconductor Integrated Circuits Layout-Design for the purposes of this Act.

The Central Government may appoint such other officers with such designation as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar, such functions of the Registrar under this Act as he may from time to time authorise them to discharge.



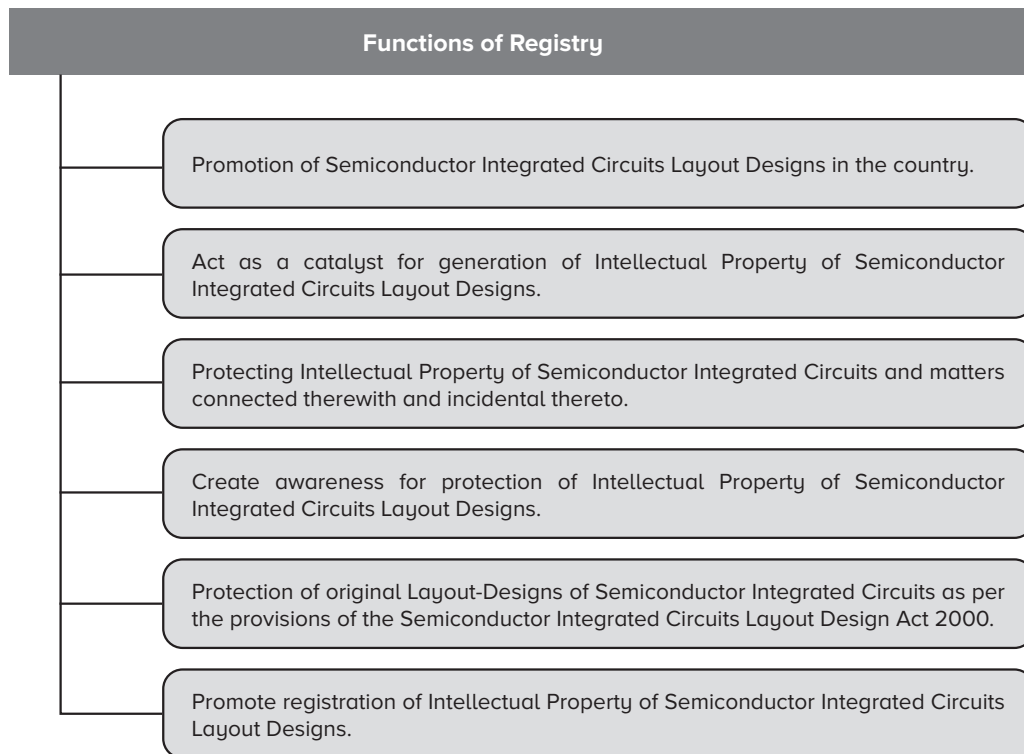
Registry

There shall be established a Registry which shall be known as the Semiconductor Integrated Circuits Layout-Design Registry.

Semiconductor Integrated Circuits Layout-Design Registry (SICLDR) is the office where the applications on Layout-Designs of integrated circuits are filed for registration of created IPR. This Registry is located in New Delhi. The jurisdiction of this Registry is whole of India. The Registry, as per the guidelines laid down in the Semiconductor Integrated Circuits Layout Design (SICLD) Act 2000 and the Semiconductor Integrated Circuits Layout-Design (SICLD) Rules 2001, examines the layout-designs of the Integrated Circuits and issues the Registration Certificate to the original layout-designs of the Semiconductor Integrated Circuits.

The Central Government may, by notification in the Official Gazette, define the territorial limits within which an office of the Semiconductor Integrated Circuits Layout-Design Registry may exercise its functions.

Functions of Registry



Register of Layout-Designs

A record called the Register of Layout-Designs shall be kept at the head office of the Semiconductor Integrated Circuits Layout-Design Registry wherein shall be entered all registered layout-designs with the names, addresses and descriptions of the proprietor and such other matters related to the registered layout-designs as may be prescribed. The register shall be kept under the control and management of the Registrar. There shall be kept at each Branch office of the Semiconductor Integrated Circuits Layout-Design Registry a copy of the register and other documents as the Central Government may, by notification in the Official Gazette, direct.

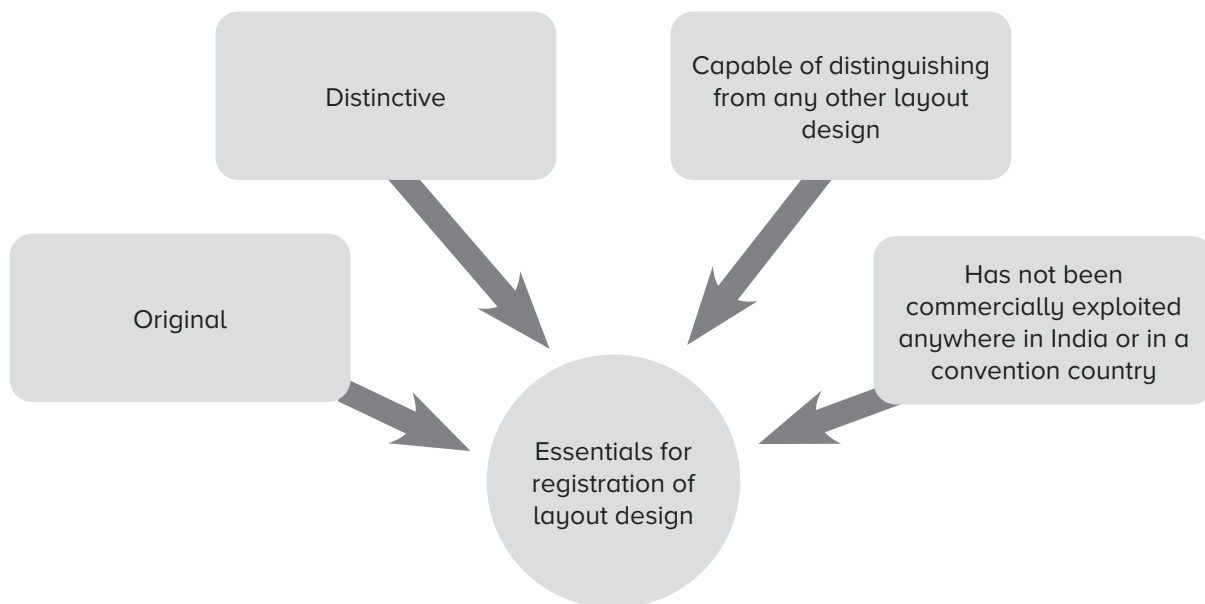
It may be noted that-

“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; [Section 2(h)]

“Semiconductor 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; [Section 2(r)]

Criteria for registration of layout-design

A layout design shall be-



Prohibition of registration of certain layout-designs

As per Section 7 of the Act, a layout-design—

- which is not original; or
- which has been commercially exploited anywhere in India or in a convention country; or
- which is not inherently distinctive; or
- which is not inherently capable of being distinguishable from any other registered layout- design.

shall not be registered as a layout-design:

Provided that a layout-design which has been commercially exploited for not more than two years from the date on which 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.

A layout-design shall be considered to be original if it is the result of its creator's own intellectual efforts and is not commonly known to the creators of layout-designs and manufacturers of semiconductor integrated circuits at the time of its creation:

Provided that a layout-design consisting of such combination of elements and interconnections 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.

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.

PROCEDURE FOR AND DURATION OF REGISTRATION

What is the registration process cycle and time required for obtaining registration certificate?

The registration cycle includes -

- ***Filing of application by the creator of the layout-design at the SICLD Registry.***
- ***The acceptance of application.***
- ***Registrar may accept, refuse the application or accept with some modifications.***
- ***The accepted applications shall be advertised within 14 days of acceptance.***
- ***Any opposition to the advertisement can be filed within 3 months from the date of advertisement.***
- ***The counter-statement to the notice of opposition, if any, to be filed within 2 months from the date of receipt of copy of notice of opposition from the Registrar.***
- ***A copy of the counter statement provided to the opposing party.***
- ***The Registrar may take hearing with the parties.***
- ***The Registrar will decide on the originality of the layout-design and grant or reject the application for registration based on the conclusions reached by him.***
- ***Aggrieved party can appeal to Appellate Board or in its absence Civil Court for relief on any ruling of the Registrar.***

Application for registration

Under Section 8 of the Act, any person claiming to be the creator of a layout-design, who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his layout-design.

Every application shall be filed in the 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, as 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.

Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments or modifications, as he may think fit.

Rule 22 states that the application for the registration shall be made on Form LD-1 accompanied by prescribed fee and shall be signed by the applicant or his agent.

Three sets of one of the following items, which clearly describe the layout-design, shall be attached. The size of the drawing or the photograph shall not be less than 20 times the size of the semiconductor integrated circuit fabricated using such layout-design, namely:-

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

In the case the applicant for registration of layout-design makes a request in writing for maintaining the secrecy of the layout-design, he may attach in place of the drawings or photographs specified in sub-rule (2), the three sets of partially blocked drawings or photographs of such layout-design to the satisfaction of the Registrar. The Registrar may inspect the complete drawing or photographs of such layout-design. The blocking of such drawing or photograph shall be to the satisfaction of the Registrar such that it does not hamper the identification of the applied-for layout-design. The blocked out area of such drawing or photograph shall not be greater than the area of the remaining portion of layout-design.

What is the registration fee?

The registration fee is Rs. 5000/- to be paid via Demand Draft in favour of “PAO, CGPDTM” payable at Mumbai.

Withdrawal of acceptance

Where after the acceptance of an application for registration of layout-design, but before its registration, the Registrar is satisfied that the layout-design is prohibited of registration under section 7, the Registrar may, after hearing the applicant if he so desires, withdraw the acceptance and proceed as if the application had not been accepted.

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.

Where after advertisement of an application—

- (a) an error in the application has been corrected; or
- (b) the application has been permitted to be amended under section 12.

The Registrar may in his discretion cause the application to be advertised again or, in any case falling under clause (b), may, instead of causing the application to be advertised again, notify in the prescribed manner the correction or amendment made in the application.

As per Rule 30, an application for the registration of a layout-design required to be advertised or to be re-advertised shall be advertised in the journal. The following details shall be given in the advertisement, namely:—

- (i) Application No;
- (ii) Date of acceptance of application for registration of layout-design;

- (iii) Name and address of the proprietor as given in the application;
- (iv) Brief description of the layout-design;
- (v) Whether the layout-design has been commercially exploited, if so the period of such exploitation;
- (vi) The address of the office of the Registry where the application is filed.

Opposition to registration

According to Section 11, 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 and on payment of the prescribed fee, allows, give notice in writing in the prescribed manner to the Registrar of opposition to the registration.

Sub- Section (2) states that, the Registrar shall serve a copy of the notice on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner 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.

If the applicant sends such counter-statement, the Registrar shall serve a copy thereof on the person giving notice of opposition.

Any evidence upon which the opponent and the applicant may rely shall be submitted in the prescribed manner and within the prescribed time to the Registrar, the Registrar shall give an opportunity to them to be heard, if they so desire.

The Registrar shall, after hearing the parties, if so required, and considering the evidence, decide, after taking into account any ground of objection whether relied upon by the opponent or not.

When a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar may require him to give security for the costs of proceedings before him and, in default of such security being duly given, may treat the opposition or application, as the case may be, as abandoned.

A notice of opposition to the registration of a layout-design under sub-section (1) of section 11 shall be given in triplicate on Form LD-2 accompanied by prescribed fee within three months from the date of advertisement or re-advertisement, as the case may be, of the application for registration in the journal. The notice shall include a statement of the grounds on which the opponent objects to the registration.
[Rule 33(1)]

Correction and amendment of Application

The Registrar may on such terms as he thinks just—

- (i) at any time, whether before or after acceptance of an application for registration under section 8, permit the correction of any error in or in connection with the application or permit an amendment of the application; or
- (ii) permit correction of any error in, or an amendment of, a notice of opposition or a counterstatement under section 11.

Registration

Subject to the provisions of section 9, when an application for the registration of the layout-design has been accepted and either—

- (a) the application has not been opposed and time for notice of opposition has expired; or
- (b) the application has been opposed and the opposition has been decided in favour of the applicant,

the Registrar shall register the said layout-design in the register and the layout-design shall be registered as of the date of the making of the said application and that date shall be deemed to be the date of registration.

On the registration of a layout-design, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Semiconductor Integrated Circuits Layout-Design Registry.

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.

The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

Rule 46 states that the Certificate of registration of a layout-design to be issued by the Registrar under sub-section (2) of 13 shall be on Form OLD-2 with such modifications as the circumstances of any case may require.

Duration of registration

According to Section 15, the registration of a layout-design shall be only for a period of 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.

What is the period of validity of registration?

A period of 10 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 convention country or country specified by Government of India whichever is earlier.

EFFECT OF REGISTRATION

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.

Infringement of layout-design

Section 18 states that, 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, except such act of reproducing any part thereof which is not original within the meaning sub-section (2) of section 7;
- (b) subject to the provisions of sub-section (5), does any act of importing or selling or otherwise distributing for commercial purposes a registered layout-design or a semiconductor integrated circuit incorporating such registered layout-design or an article incorporating such a semiconductor integrated circuit containing such registered layout-design for the use of which such person is not entitled under this Act.

Where a layout-design is created by the process of scientific evaluation or analysis of the registered layout-design as referred to in sub-section (3), the use of such layout-design by the proprietor of such registered layout-design shall be regarded as infringement within the meaning of sub-section (1) after the date of registration of such layout-design under this Act

Exceptions-

Below given shall not constitute infringement of layout- design:-

1. The performance of the act of reproduction 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.
2. Where a person, on the basis of scientific evaluation or analysis of a registered layout-design, creates another layout-design which is original within the meaning of sub-section (2) of section 7, that person shall have the right to incorporate such another layout-design in a semiconductor integrated circuit or to perform any of the acts referred to in sub-section (1) or sub-section (5) in respect of such another layout-design and such incorporation or performance of any act shall not be regarded as infringement within the meaning of sub-section (1).

Section 18(5) expresses that notwithstanding anything contained in clause (b) of sub-section (1), the performance of any of the acts referred to in that clause by a person shall not be regarded as infringement within the meaning of that clause if such act is performed or directed to be performed in respect of a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit where such person does not possess 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 the proprietor of the registered layout-design a sum by way of royalty to be determined by negotiation between registered proprietor of the registered layout-design and that person or by the Appellate Board having regard to the benefit accrued to such person by performing or directing to be performed such act in respect of such semiconductor integrated circuit or article, as the case may be.

Where any other person purchases a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit referred to in sub-section (5) from a person referred to in that sub-section, then, such other person shall be entitled to the immunity from infringement in respect of that semiconductor integrated circuit or article, as the case may be, to the extent and in the manner as if the word “person” referred in that sub-section includes the word any other person referred in this sub-section.

Nothing contained in clause (b) of sub-section (1) shall be construed as constituting an act of infringement where any person performs any of the acts specified in that clause 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.

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.

Registration to be prima facie evidence of validity

The original registration of the layout-design and all subsequent assignments and transmissions of layout-design shall be prima facie evidence of the validity thereof.

In all legal proceedings as aforesaid, a registered layout-design shall not be held to be invalid on the ground that it was not a registerable layout-design under section 7 except upon evidence of originality and that such evidence was not submitted to the Registrar before registration.

ASSIGNMENT AND TRANSMISSION

Power of Registered Proprietor to assign and give receipts

The person for the time being included in the register as proprietor of a layout-design shall, subject to the provisions of this Act and to any right appearing from the register to be vested in any other person, have power to assign the layout design, and to give effectual receipts for any consideration for such assignment.

Assignability and transmissibility of registered layout-design

Notwithstanding anything in any other law to the contrary, a registered layout-design shall, subject to the provisions of this Chapter, be assignable and transmissible whether with or without the goodwill of the business concerned.

As per Rule 54, an application under rule 47 relating to an assignment of a layout-design shall state—

- a) whether the layout-design had been or was used in the business; and
- b) whether the assignment was made otherwise than in connection with the goodwill of that business;

and if both those circumstances subsisted, then, the applicant shall leave at the Registry a copy of the directions to advertise the assignment, obtained upon application under rule 53, and such proof, including copies of advertisement or otherwise, as the Registrar may require, to show that his directions have been fulfilled and if the Registrar is not satisfied that the directions have been fulfilled, he shall not proceed with the application.

It may be noted that-

“transmission” means transmission by operation of law, devolution on the personal representation of a deceased person or any other mode of transfer not being assignment; [Section 2(t)]

Conditions for assignment otherwise than in connection with the goodwill of a business

Where an assignment of a registered layout-design is made otherwise than in connection with the goodwill of business in which such layout-design has been or is used, the assignment shall not take effect unless the assignee, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, not exceeding three months in the aggregate, as the Registrar may allow, apply to the Registrar for directions with respect to the advertisement of the assignment, and advertises it in such form and manner and within such period as the Registrar may direct.

Registration of assignments and transmissions

As per Section 23, where a person becomes entitled by assignment or transmission to a registered layout-design, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of his title to his satisfaction, register him as the proprietor of the layout-design and shall cause particulars of the assignment or transmission to be entered on the register:

Provided that where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the party have been determined by a competent court.

Except for the purpose of an application before the Registrar under sub-section (1) or an appeal from an order thereon, or an application under section 30 or an appeal from an order thereon, a document or instrument in respect of which no entry has been made in the register in accordance with sub-section (1), shall not be admitted in evidence by the Registrar or the Appellate Board or any court in proof of title to the layout-design by assignment or transmission unless the Registrar or the Appellate Board or the court, as the case may be, otherwise directs.

Rule 47 provides that an application to register the title of a person who becomes entitled, by assignment or transmission, to a registered layout-design shall be made on Form LD-10 or Form LD-11 accompanied by prescribed fee according as it is made by such person alone or conjointly with the registered proprietor.

USE OF LAYOUT-DESIGN AND REGISTERED USERS

Registered user

Subject to the provisions of section 25, a person other than the registered proprietor of a layout-design may be registered as a registered user thereof.

Registration as registered user

Section 25 of the Act states that where it is proposed that a person should be registered as a registered user of a layout-design, the registered proprietor and the proposed registered user shall jointly apply in writing to the Registrar in the prescribed manner and every such application shall be accompanied by—

- (a) the agreement in writing or a duly authenticated copy thereof, entered into between the registered proprietor and the proposed registered user with respect to the permitted use of the layout design; and
- (b) an affidavit made by the registered proprietor or by some person authorised to the satisfaction of Registrar to act on his behalf—
 - (i) giving particulars of the relationship, existing or proposed, between the registered proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which the relationship will confer and whether it is a term of their relationship that the proposed registered user shall be sole registered user or that there shall be any other restriction as to persons for whose registration as registered user application may be made;
 - (ii) stating the conditions or restrictions, if any, proposed with respect to the place of permitted use or any other matter;
 - (iii) stating whether the permitted use to be for a period or without limit of period, and, if for a period, the duration thereof; and
- (c) such further documents or other evidence as may be required by the Registrar or as may be prescribed.

An application to Registrar for the registration under section 25 of a person as a registered user of a registered layout-design shall be made jointly by that person and the registered proprietor of the layout-design on Form LD-13 accompanied by prescribed fee and shall also be accompanied by the necessary documents. [Rule 55]

Where the requirement of sub-section (1) have been complied with, the Registrar shall register the proposed registered user.

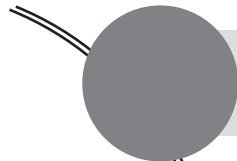
The Registrar shall issue notice in the prescribed manner of the registration of a person as a registered user to other registered users of the layout-design, if any.

The Registrar shall, if so requested by the applicant, take steps of securing that information given for the purposes of an application under this section (other than matters entered in the register) is not disclosed to rivals in trade.

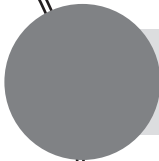
Power of Registrar for cancellation of registration as registered user

Section 26 states that, without prejudice to the provisions of section 30, the registration of a person as registered user—

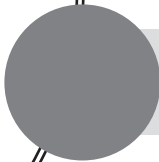
- a) may be cancelled by the Registrar on application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the layout-design;
- b) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, namely:—



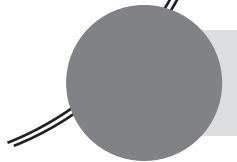
that the registered user has used the layout-design otherwise than in accordance with the agreement under clause (a) of sub-section (1) of section 25;



that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for registration which if accurately represented or disclosed would not have justified the registration of the registered user;



that the circumstances have changed since the date of registration in such a way that at the date of such application for cancellation they would not have justified registration of the registered user;



that the registration ought not to have been effected having regard to right vested in the applicant by virtue of a contract in the performance of which he is interested;

- c) may be cancelled by the Registrar on his own motion or on the application in writing in the prescribed manner by any person on the ground that any stipulation in the agreement between the registered proprietor and the registered user regarding the topographical dimensions of the layout design is either not being enforced or is not being complied with;
- d) may be cancelled by the Registrar if the layout-design is no longer registered.

The Registrar shall issue notice in the prescribed manner in respect of every application under this section to the registered proprietor and each registered user (not being the applicant) of the layout design.

The procedure for cancelling a registration shall be such as may be prescribed:

Provided that before cancelling of registration, the registered proprietor shall be given a reasonable opportunity of being heard.

An application for the cancellation of the registration of a registered user under clause (a) or clause (b) or clause (c) of sub-section (1) of section 26 shall be made on Form LD-14 or Form LD-15, as the case may be, accompanied by prescribed fee and shall be accompanied by a statement of grounds on which it is made.

Power of Registrar to call for information relating to agreement in respect of Registered Users

The Registrar may, at any time during the continuance of the registration of the registered user, by notice in writing, require the registered proprietor to confirm to him within one month that the agreement filed under clause (a) of sub-section (1) of section 25 continues to be in force.

If the registered proprietor fails to furnish the confirmation within one month as required under sub-section (1), the registered user shall cease to be the registered user on the day immediately after the expiry of said period and the Registrar shall notify the same.

Right of registered user to take proceedings against infringement

Subject to any agreement subsisting between the parties, a registered user may make complaint before the competent criminal court for the infringement in his own name as if he were the registered proprietor.

Registered user not to have right of assignment or transmission

Nothing in this Act shall confer on a registered user of a layout-design any assignable or transmissible right to the use thereof.

The right of a registered user of a layout-design shall not deem to have been assigned or transmitted within the meaning of this section in the following cases, namely:—

where the registered user being an individual enters into a partnership with any other person for carrying on the business concerned; but in any such case the firm may use the layout design, if otherwise in force, only for so long as the registered user is a member of the firm.

where the registered user being a firm subsequently undergoes a change in its constitution; but in any such case the reconstituted firm may use the layout design, if otherwise in force, only for so long as any partner of the original firm at the time of its registration as registered user, continues to be a partner of there constituted firm.

APPELLATE BOARD

Establishment of Layout-Design Appellate Board

The Central Government shall, by notification in the Official Gazette, establish an Appellate Board under Section 32 to be known as the Layout-Design Appellate Board to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Composition of Appellate Board

The Appellate Board shall consist of a Chairperson, Vice-Chairperson, and such other Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Appellate Board may be exercised by a Bench thereof.

A Bench shall consist of one Judicial Member and one Technical Member and shall sit at such place as the Central Government may, by notification in the Official Gazette, specify.

The Chairperson—

- (a) may, in addition to discharging the functions of the Judicial Member or Technical Member of the Bench to which he is appointed, discharge the function of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;
- (b) may transfer a Member from one Bench to another Bench;
- (c) may authorise Vice-Chairperson, the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Judicial Member or the Technical Member, as the case may be, of another Bench.

Where any Benches are constituted, the Central Government may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Board amongst the Benches and specify the matters which may be dealt by each Bench.

Explanation.—For the removal of doubts, it is hereby declared that the expression “matter” includes an application or appeal under section 40 or section 42.

If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case including those who first heard it.

Term of office of Chairperson, Vice-Chairperson and Members

The Chairperson, Vice Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

- a) in the case of Chairperson and Vice-Chairperson, the age of sixty-five years; and
- b) in the case of Member, the age of sixty-two years, whichever is earlier.

Application to the Appellate Board to determine royalty

The registered proprietor of a registered layout-design may make an application to the Appellate Board for determination of royalty under sub-section (5) of section 18.

Every application under sub-section (1) shall be in such form and be accompanied by such affidavits, documents or any other evidence and by such fee in respect of the filing of such application and by such other fees for the service or execution of processes as may be prescribed.

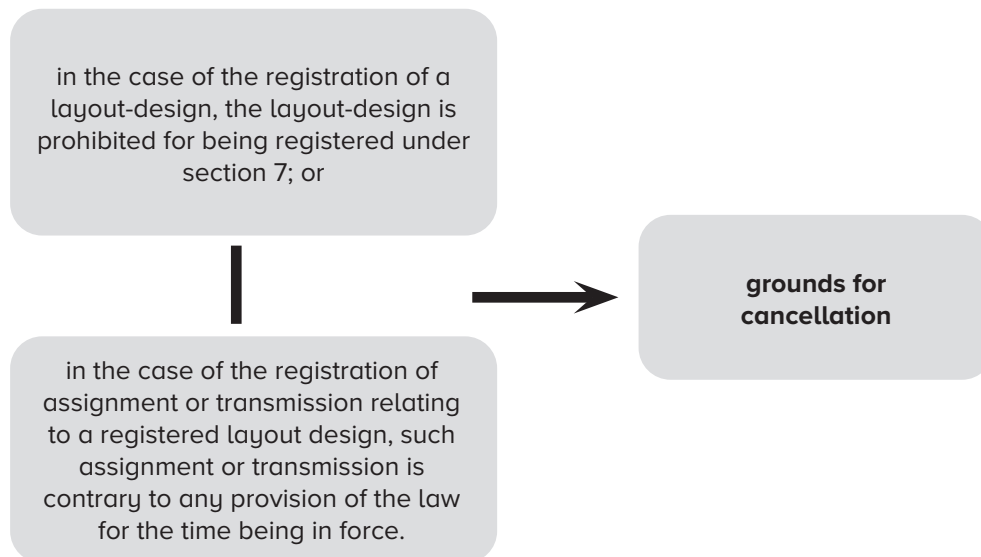
On receipt of an application under sub-section (1), the Appellate Board shall, after giving notice to the opposite party to file opposition within the prescribed time and manner and after giving opportunity of being heard to the applicant and the opposite party, dispose of the application.

An order or decision made by the Appellate Board in disposing of the application under subsection (3) shall be executable by a civil court having local jurisdiction as if it were a decree made by that court.

The application under sub-section (1) of section 40 for determining royalty shall be made to the Appellate Board on Form LD-27. On receipt of an application under sub-rule (1) the Appellate Board shall give notice to the opposite party on the Form OLD-3. The opposing party may file opposition within thirty days from the date on which such notice is served to him on Form LD-28. The Appellate Board shall on receipt of opposition under sub-rule (2) or where no such opposition is filed after the expiration of the period of thirty days referred to in sub-rule (2), after giving opportunity of being heard to the applicant and the opposite party, dispose of the application. [Rule 73]

Power of the Board to cancel registration

According to Section 41, any person may make an application, in the prescribed form accompanied by 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—



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.

Any cancellation of the registration of a layout-design either in whole or in part under sub-section (2) shall be deemed to be effective on the date from which the period of ten years referred to in section 15 is countable in respect of that layout-design.

The Appellate Board shall, without delay after making any order of cancellation under sub-section (2), send a copy of such order to the Registrar who shall correct the register to give effect to such order.

Any person may make application under sub-section (1) of section 41 to apply for the cancellation of the registration or of assignment or transmission of the layout-design to the Appellate Board on Form LD-33 accompanied by prescribed fee. The Board shall give notice on Form OLD-8 to the opposite parties. [Rule 69]

Appeal to Appellate Board

Section 42 states that, any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder may prefer an appeal to the Appellate Board within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal.

No appeal shall be admitted if it is preferred after the expiry of the period specified under subsection (1):

Provided that an appeal may be admitted after the expiry of the period specified therefor, if the appellant satisfies the Appellate Board that he had sufficient cause for not preferring the appeal within the specified period.

An appeal to the Appellate Board shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and by such fees as may be prescribed.

An appeal to the Appellate Board under sub-section (1) of section 42 shall be preferred on Form LD-26 accompanied by prescribed fee and shall be verified by the person preferring the appeal in the manner specified in such form. A copy of the order on decision against which such appeal is preferred shall be accompanied with such form. [Rule 74]

Procedure and powers of Appellate Board

The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice and, subject to the provisions of this Act and the rules made thereunder, the Appellate Board shall have powers to regulate its own procedure including the fixing of places and times of its hearing.

The Appellate Board shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

- a) receiving evidence;
- b) issuing commissions for examination of witnesses;
- c) requisitioning any public record; and
- d) any other matter which may be prescribed.

Any proceeding before the Appellate Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code, and the Appellate Board shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Power of the Board to permit certain uses

Section 51 of the Act states that notwithstanding anything contained in this Act, the Appellate Board may on an application made in the prescribed manner before it on behalf of the Government or by any person authorised

by the Government and after giving notice of such application to the registered proprietor of a layout-design and providing the opportunity of being heard to the parties concerned permit the use of such registered layout-design by the Government or by such person so authorised, as the case may be, subject to any or all of the following conditions as the Board deems fit under the circumstances of such use, namely:—

- a) that the use of the layout-design shall be for non-commercial public purposes or for the purposes relating to national emergency or of extreme public urgency;
- b) that the duration of the use of the layout-design shall be limited for a period specified by the Board;
- c) that the use of the layout-design shall be non-assignable and non-transmissible;
- d) that the use of the layout-design shall be to the extent which the Board deems necessary to remedy the anti-competitive practice;
- e) that the use of the layout-design shall be predominantly for the supply of semiconductor integrated circuits or articles incorporating semiconductor integrated circuits in domestic market of India:

Provided that Board shall not permit the use of a registered layout-design, by any such person authorised by the Government, under this sub-section unless the Board is satisfied that such person so authorised has made efforts to enter into agreement with the registered proprietor of such layout-design on reasonable commercial terms and conditions for permitted use of such layout-design and such efforts had not been successful within prescribed period:

Provided further that the first proviso shall not be applicable in a case where the person so authorised produces to the Board a certificate issued by the Government to the effect that such use is required due to national emergency or any other circumstances which the Government considers to be of extreme urgency or of public non-commercial use.

The Appellate Board shall, while granting the permission for the use of a registered layout-design under sub-section (1), determine the amount of royalty to be paid by the Government or the person authorised by the Government, as the case may be, to the registered proprietor of such layout-design for such permitted use.

The Appellate Board may, on the application of the registered proprietor of a layout-design referred to in sub-section (1), may review the permission granted under that sub-section and, after giving notice and opportunity of hearing to the parties concerned in the prescribed manner, cancel or amend such permission if the Board is satisfied that any of the conditions subject to which the permission was granted has not been observed or the circumstances which led to the granting of such permission has ceased to exist or substantially altered.

APPEAL

According to Section 53 of the Act, 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.

Every such appeal shall be preferred by petition in writing and shall be in such form and shall contain such particulars as may be prescribed.

Subject to the provisions of this Act and the rules made thereunder, the provisions of the Code of Civil Procedure, 1908 shall apply to appeals before a High Court under this Act.

OFFENCES, PENALTIES AND PROCEDURE

Penalty for infringement of layout-design

Section 56 states that, any person who contravenes knowingly and wilfully any of the provisions of section 18 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.

Penalty for falsely representing a layout-design as registered

According to Section 57, no person shall make any representation with respect to a layout-design not being a registered layout-design, to the effect that it is a registered layout-design.

If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

Exceptions-

For the purposes of this section, the use in India in relation to a layout-design of the word “registered”, or of any other expression referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

- a. where that word or other expression, is used in direct association with other words delineated in characters at least as large as those in which that word or other expression is delineated and indicating that the reference is to registration as a layout-design under the law of a country outside India being a country under the law of which the registration referred to is in fact in force; or
- b. where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (a); or
- c. where that word is used in relation to a layout-design registered as a layout-design under the law of a country outside India and in relation solely to such layout-design.

Penalty for falsification of entries in the register

If any person makes, or causes to be made, a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both. (Section 59)

Forfeiture of goods

Section 60 provides for forfeiture of goods. It states that, where a person is convicted of an offence under section 56, the court convicting him may direct the forfeiture to Government of all goods and things by means of, or in relation to, which the offence has been committed.

When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

When a forfeiture is directed on a conviction, the court, before whom the person is convicted, may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

Exemption of certain persons employed in ordinary course of business

Where a person accused of an offence under section 56 proves—

- (a) that in the case which is the subject of the charge he was so employed that it relates to the duty of his employment, and was not interested in the profit accruing from such commission of offence except the duty of his employment; and
- (b) that, having taken all reasonable precautions against committing the offence charged, he had, at the time of commission of the alleged offence, no reason to suspect the genuineness of the registered layout-design or a semiconductor integrated circuit in which such layout-design is incorporated; and
- (c) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the commission of such offence, he shall be acquitted.

Offences by companies

If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association or individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

INTERNATIONAL TREATIES AND CONVENTIONS

The enormous success of the semiconductor sector raises concerns about effective intellectual property protection. Even while the cost of making chips has decreased significantly in recent years, it can still take years and millions of dollars to perfect new circuit designs.

A significant amount of the price of a new integrated circuit goes into this costly process. Because of this, chip manufacturers seek internationally regarded intellectual property protection for their work creating design topographies that are profitable commercially.

In the absence of international protection, chip makers won't be able to stop other businesses from duplicating the integrated circuit layout design, skipping the pricey development step and producing a portion or perhaps the full semiconductor chip for a much lower price.

Washington Treaty

Even if the integrated circuit's core functionality may be covered by a patent, the patent's breadth is constrained and insufficient to protect chip makers. The Washington Convention on Intellectual Property in Respect of Integrated Circuits was established by the World Intellectual Property Organization (WIPO) in 1989 in an effort to address this issue.

The goal of the Washington Treaty's proponents was to guarantee global intellectual property protection for integrated circuit layout concepts. Notwithstanding the fact that the Washington Treaty has not yet come into effect, many of its provisions were incorporated into the GATT/WTO Agreement on Trade-Related Aspects of Intellectual Property Rights at the end of 1994.

The Washington Treaty was adopted in 1989 and provides protection for the layout designs (topographies) of integrated circuits. The Treaty has not yet entered into force, but has been ratified or acceded to by the following States: Bosnia and Herzegovina, Egypt and Saint Lucia.

Although the Washington Treaty has not entered into force, its substantive provisions have been incorporated by reference in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), to a large extent. These provisions deal, among other things, with the definitions of “integrated circuit” and “layout-design (topography)”; requirements for protection; exclusive rights conferred and their limitations; as well as exploitation, registration and disclosure. The TRIPS Agreement provides for additional provision, inter alia, on the scope and term of protection.

The international legal framework leaves it open to member states as to which legal form of protection for the layout designs of integrated circuits is provided. In most countries, a special law (*sui generis* law) on layout-designs (topographies) of integrated circuits (or sometimes called “mask works”) exists. However, countries may provide protection of layout designs of integrated circuits by the law on copyright, patents, utility models, industrial designs, unfair competition or any other law (or a combination of any of those laws).

This WTO decision was significant for a variety of reasons. Originally, just eight countries signed the original Washington Treaty in 1990. Its minimal protection length of eight years, as opposed to the ten years demanded by technological superpowers Japan and the United States, may have contributed to its poor participation. Only four other countries have ratified or joined the treaty since it was first signed. The TRIPS Agreement, in contrast, covers a considerably larger group of countries, specifically all WTO participants. Even the least developed countries must comply in order to be WTO members, despite the TRIPS Agreement allowing for various transition periods (allowable delays in compliance) for nations of varying developmental statuses.

The implementation of the WTO’s Dispute Settlement Understanding (DSU), frequently referred to as the WTO’s “crown jewel,” is a significant benefit of the Washington Treaty’s integration into the TRIPS Agreement. The DSU of the WTO permits involvement by third parties in a manner similar to that of an *amicus curiae* as well as an automatic appellate review procedure not found within the ambit of the Washington Treaty. The DSU provides for the possibility of the contested measures being withdrawn, potential compensation, and, as a last resort, retaliatory trade actions. ³⁶ In general, the DSU offers a dispute resolution process that is more effective, comprehensive, and practical than the Washington Treaty.

TRIPS Agreement

According to this Convention, “Each Contracting Party shall have the duty to ensure, throughout its territory, intellectual property protection with respect to layout-designs (topographies).” For this rule to be applicable, the integrated circuit does not have to be incorporated into a product (such a computer). A layout design can also be defined by the Washington Treaty’s adopted provisions, which state that it is “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.”

WTO participants are obligated to safeguard final layout designs in this fashion, which may include the production-ready chip layout or a three-dimensional model of the chip. Due to the fact that they are not “3-D dispositions,” two-dimensional mask works and computer models of the layout design are specifically excluded from this mandated coverage. But a different mechanism might be able to protect both of these works.

Originality is a further stipulation made in the Washington Treaty and then incorporated into the TRIPS Agreement. If layout designs “are the result of their creators’ own intellectual effort and are not common among creators of layout designs (topographies) and manufacturers of integrated circuits at the time of their creation” or “are an original combination of commonplace interconnections and elements,” then they are considered original layout designs.

This originality requirement may be considered as more stringent than the “minimally inventive” standard in the United States copyright system, but less stringent than the novelty and non-obviousness requirements in the United States patent system.

CASE LAW

M/S Puneet Industrial Controls vs. M/S Classic Electronics & Anr on 8 October, 2012 (C.S No: 59/2012)

The present suit has been filed by plaintiff claiming rights in electronic relay products having unique electric and electronic circuits and design layout printed on circuit boards (PCB) and allegedly developed, designed and being used by the plaintiff commercially. These are in fact semiconductor integrated circuits within the meaning of section 2 (r) of the Semiconductor Integrated Circuits Layout Design Act, 2000 (hereinafter ‘the SICLD Act’). These are products having transistors and other circuitry elements which are inseparably formed

on an insulating material viz. PCB and are designed to perform electronic circuitry functions and consequent use. This entire layout is a layout design within the meaning of the SICLD Act.

The works claimed to be ‘artistic work’ under the Copyright Act and ‘layout design’ under the ‘the SICLD Act’ are poles apart without an iota of similarity. The IC’s are not complete circuits but a part circuit whereas the plaintiff’s products are complete circuits and the plaintiff also uses IC’s in their circuit as components. In the case of plaintiff the section 2(r) of and ‘layout design’ under section 2(h) read with section 7 of the SICLD Act are not attracted.

Court held that-

“The SICLD Act is a ‘Special Act’ visavis the Copyright Act which is a general statute, on this relative aspect. In *Ethiopian Airlines vs. Ganesh Narain Saboo* (2011) 8 SCC 539 it has been held that specific statutes that come later in time supersede prior general statute as the Legislative intention is to exclude older and general statutes by more recent and special statutes. Case of *Darshan Singh vs. Ram Pal Singh* AIR 1991 SC 1654 has been relied upon to cite that retrospective effect is not to be given to an Act, unless the Legislature made it so by express words or necessary implication. SICLD Act had not been in existence when the suit had been instituted by the plaintiff. Thus the plaintiff is not to be perceived as a visionary who could have seen into the future and drafted its plaint accordingly. To consider that the provisions of SICLD Act are applicable it is to be held that the IPRs projected by the plaintiff are ‘semiconductor integrated circuits’ or ‘layout designs’. This aspect cannot be read into the plaint, and being a factual aspect necessarily requires evidence or trial. Though the defendant has not raised such a defence in its written statement and even otherwise under Order 7 Rule 11 CPC a defence cannot be considered, the fact remains that it cannot be unequivocally stated that the plaint, as it has been presented, is barred by any law from a statement made in the plaint. It is a fit case where the parties must be afforded an opportunity to test the rival facts on the altar of evidence, rather the rejecting the plaint on doubtful premises”.

LESSON ROUND-UP

- The Semiconductor Integrated Circuits Layout Design Act, 2000 provides protection for semiconductor IC layout designs. Semiconductor Integrated circuits are fabricated from a complex series of layers of semiconductors, metals, dielectrics (insulators) and other materials on a substrate.
- Integrated circuits are made up of many individual building blocks, each of which is patentable. A claim to an integrated circuit would need to cover hundreds or thousands of individual components because an integrated circuit has hundreds or thousands of semiconductor devices.
- The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Registrar of Semiconductor Integrated Circuits Layout-Design for the purposes of this Act.
- A record called the Register of Layout-Designs shall be kept at the head office of the Semiconductor Integrated Circuits Layout-Design Registry wherein shall be entered all registered layout-designs with the names, addresses and descriptions of the proprietor and such other matters related to the registered layout-designs as may be prescribed.
- A layout-design shall be considered to be original if it is the result of its creator’s own intellectual efforts and is not commonly known to the creators of layout-designs and manufacturers of semiconductor integrated circuits at the time of its creation.
- Under Section 8 of the Act, any person claiming to be the creator of a layout-design, who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his layout-design.
- 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.

- The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.
- According to Section 15, the registration of a layout-design shall be only for a period of 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.
- As per Section 23, where a person becomes entitled by assignment or transmission to a registered layout-design, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of his title to his satisfaction, register him as the proprietor of the layout-design and shall cause particulars of the assignment or transmission to be entered on the register.
- Subject to the provisions of section 25, a person other than the registered proprietor of a layout-design may be registered as a registered user thereof.
- The Central Government shall, by notification in the Official Gazette, establish an Appellate Board under Section 32 to be known as the Layout-Design Appellate Board to exercise the jurisdiction, powers and authority conferred on it by or under this Act.
- Section 56 states that, any person who contravenes knowingly and wilfully any of the provisions of section 18 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.
- If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

GLOSSARY

Layout-design - It 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 - It 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.

Transmission - It means transmission by operation of law, devolution on the personal representation of a deceased person or any other mode of transfer not being assignment.

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

Registered proprietor - In relation to a layout-design, it means the person for the time being entered in the register as proprietor of the layout-design.

Register of Layout-Designs - It is a record wherein all details shall be entered with the names, addresses and descriptions of the proprietor and such other matters related to the registered layout-designs as may be prescribed.

Registered Layout-Designs - It refers to the layout design that has been already registered in Register of Layout-Designs.

