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THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN
MINISTRY OF COMMERCE AND INDUSTRIES

**DRAFT LAW ON PROTECTION OF LAYOUT DESIGN OF
INTEGRATED ELECTRONIC CIRCUITS
2013(1392)**

Law on Protection of Layout Designs of Integrated Circuits

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Law on Layout Designs of Integrated Circuits

Chapter One General Provisions

Basis

Article 1:

This Law is enacted in the light of Article forty seven of the Constitution of the Government of the Islamic Republic of Afghanistan.

Objectives

Article 2:

The objective of this Law is to regulate:

- 1) the rights and duties related to layout designs of integrated circuits;
- 2) the process for registering layout designs of integrated circuits; and
- 3) compulsory licenses of layout designs of integrated circuits.

Terms

Article 3:

Terms used in this Law have the following meanings:

Register: the Register of Layout of Designs of Integrated Circuits.

Registry: the Registry Office of the Afghanistan Central Business Registry.

Ministry

2) an application for registration is filed in Afghanistan within two years from the date of the first ordinary commercial exploitation of the layout design, anywhere in the world.

2. A layout design that consists of a combination of elements and interconnections that are commonplace will be protected only if the combination, taken as a whole, fulfills the conditions referred to in subparagraph (1)(1) of this Article.

3. A layout design may be registered and protected under this Law whether or not the integrated circuit is incorporated in an article.

Owner of Rights

Filing Date, Inspection and Amendment

Article 8:

1. The date on which the Registry receives the application for registration of the layout design will be deemed to be the filing date, provided that the application fulfills all legal requirements, and includes all required data about the applicant and illustrating the layout design.

Term of Protection

Article 12:

1) Protection of a layout design is counted as from 10 years from the filing date of an

4. Where a third party, on the basis of evaluation or analysis of a protected layout design permitted under paragraph 1(1)(b) of this Article, creates a second layout design complying with the requirement of originality referred to in Article 5 of this Law, that third party may incorporate the second layout design in an integrated circuit, or perform any of the acts referred to in paragraph (1) of this Article in respect of the second layout design, without being regarded as infringing the rights of right holder in the protected layout design.

5. The right holder in a layout design may not exercise his exclusive rights in respect of an identical original layout design that was independently created by a third party.

Exhaustion of Rights

Article 14:

The acts of importing, selling or distributing referred to in Article 13(1)(2) of this Law will not be deemed unlawful where performed in respect of a protected layout 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.

Compulsory License

Article 15:

1. The Ministry may, without the consent of the right holder, grant a compulsory license for the

7. The compulsory license will be limited to use predominantly for the supply of the domestic market of Afghanistan. However, the Ministry may waive this requirement in cases of licenses to remedy practices determined to be anti-competitive.

8. Subject to adequate protection of the legitimate interests of the licensee, the compulsory license will be terminable if the circumstances which led to its grant cease to exist and are unlikely to recur.

9. The Ministry has the authority to review, upon motivated request, the continued existence of the circumstances referred to in paragraph (8) above.

10. The Ministry may refuse termination of a compulsory license as set forth in paragraph (8) above if the conditions which led to its grant are likely to recur.

11. A right holder whose protected layout design is a subject of a compulsory license must receive adequate remuneration under the circumstances of the case, taking into account the economic value of the authorization. In cases of licenses to remedy practices determined to be anti-competitive, the need to correct anti-competitive practices may be taken into account in determining the amount of remuneration.

12. The legal validity of any decision relating to the grant of a compulsory license, including any decision relating to remuneration, is subject to judicial review.

Cancellation

Article 16:

Any interested person may, during the term of protection of a layout design and in accord with the provisions of the Regulations, apply to the Registry for the cancellation of the registration of that layout design, on the grounds that the registration is contrary to the provisions of this Law.

Lapse of Protection

Article 17:

The rights in a layout design lapse in the following cases:

1. Termination of the term of protection;
2. Issuance of a final decision by the competent court canceling the registration of the layout design; or
3. Non-payment of maintenance fees, after the lapse of six months from the due date.

Appeals

Article 18:

1. A final decision by the Registry in an objection proceeding as set forth in Article 10 or in a cancellation proceeding as set forth in Article 16 is subject to judicial review.
2. The legal protection accorded to the layout design continues until the competent court issues its final decision.

Alienation, Encumbrance and Succession

Article 19:

1. Rights in a layout design may be transferred or assigned, completely or partially, and may be subject to attachment, mortgage or lien.

Chapter Five Penalties

Injunctive Remedies

Article 21:

1. The competent court will have the authority to order a party to cease actions in violation of any right set out in this Law, including the introduction into the channels of commerce in Afghanistan of imported articles that involve a violation of this Law.
2. The competent court will have the authority to order that articles that they have found to

Chapter Six
Miscellaneous Provisions

Applicability and Non-Discrimination

Article 24:

1. The provisions of this Law apply equally to nationals of Afghanistan and to natural persons