

# Act on the Protection of Layout Designs of Integrated Circuits

Passed on November 25, 1998 (RT I 1998, 108/109, 1783),  
entered into force March 16, 1999

## TABLE OF CONTENTS

	<i>Article</i>
I: General Provisions	
Scope of Application of Act.....	1
Legislation Providing Legal Protection of Layout-Designs of Integrated Circuits .....	2
Equality of Rights and Obligations of Natural and Legal Persons of the Republic of Estonia and of Foreign States.....	3
II: Bases for Legal Protection of Layout-Designs	
Definition of Integrated Circuit.....	4
Definition of Layout-Design of Integrated Circuit.....	5
Definition of Commercial Exploitation.....	6
Definition of Reproduction .....	7
Granting of Legal Protection of Layout-Designs .....	8
Duration of Legal Protection of Layout-Design.....	9
III: Author of Layout-Design and Owner of Layout-Design	
Author of Layout-Design .....	10
Rights of Author of Layout-Design.....	11
Right to Apply for Registration of Layout-Design.....	12
Exercise of Right to Apply for Registration of Layout-Design.....	13
Owner of Layout-Design.....	14
Rights of Owner of Layout-Design .....	15
Proceedings not Infringing Rights of Owner of Layout-Design.....	16
Exhaustion of Rights .....	17
IV: Application for Registration of Layout-Design and its Filing	
Application for Registration of Layout-Design.....	18
Documents of Registration Application .....	19
Request for Registration of Layout-Design.....	20
Documents Identifying Layout-Design .....	21
Filing of Registration Application.....	22
Representation of the Applicant.....	23
Authorisation.....	24
V: Processing of Registration Application	
Processor of Registration Application.....	25
Filing Date of Registration Application and Examination on Filing.....	26
Refusal to Process Registration Application .....	27
Files of Registration Applications, Access to and Release of Information Therefrom.....	28
Examination of Contents and Formal Requirements of Documents of Registration Applications Approved for Processing .....	29
Corrections and Amendments to Registration Application.....	30
Withdrawal of Registration Application .....	31
Termination of Processing of Registration Application .....	32
Resuming of Application Processing .....	33
Decision on Registration of Layout-Design .....	34
Decision on Refusal of Registration of Layout-Design.....	35
Cessation of Processing of Registration Application ....	36
Contest of Decisions of Patent Office .....	37
VI: State Register of Layout-Designs	
Maintenance of Register .....	38
Registration of Layout-Design in Register .....	39
Term of Layout-Design Registration .....	40

Composition of Register .....	41
Entry in Register .....	42
Availability of Register and Issue of Information .....	43
Maintenance and Storage of Register .....	44
Liability of Authorised Processor .....	45
Layout-Design Certificate .....	46
Issue of Certificate .....	47
VII: Transfer and Cessation of Rights	
Transfer of Registration Application .....	48
Transfer of Rights of Owner of Layout-Design .....	49
Licence .....	50
Validity of Licence Upon Deletion of Registration From Register and Upon Transfer of Rights of Owner of Layout-Design .....	51
Registration of Licence in Register .....	52
Bases for Cessation of Rights of Owner of Layout-Design .....	53
Entering Deletion of Layout-Design Registration in Register .....	54
Legal Consequence of Entry of Deletion of Registration .....	55
VIII: Contest and Protection of Rights	
Contest of Authorship of Layout-Design .....	56
Contest of Rights of Owner of Layout-Design .....	57
Contest of Registration of Layout-Design .....	58
Protection of Rights of Author of Layout-Design .....	59
Protection of Rights of Owner of Layout-Design .....	60
Order for Settlement of Layout-Design Disputes .....	61
Representative in Court Upon Settlement of Layout-Design Disputes .....	62
IX: Final Provisions	
State Fee .....	63
Amendments to State Fees Act .....	64
Amendments to Code of Administrative Offences .....	65
Amendments to Criminal Code .....	66
Amendments to Industrial Design Protection Act .....	67
Amendments to Civil Procedure Code .....	68
Entry into Force of the Act .....	69

## I. General Provisions

### *Scope of Application of Act*

1. This Act regulates legal protection of layout-designs of integrated circuits.

### *Legislation Providing Legal Protection of Layout-Designs of Integrated Circuits*

2.—(1) Legal protection of layout-designs of integrated circuits shall be provided for in this Act, other acts, and regulations based on them and issued for their implementation by the Government of the Republic and the Ministers.

(2) Legal protection of layout-designs of integrated circuits provided for in this Act shall be independent of legal protection provided for in the Copyright Act (RT 1992, 49, 615; RT I 1996, 49, 953; 1998, 36/37, 552).

(3) Where a legal act providing legal protection of layout-designs of integrated circuits is in conflict with an international agreement ratified by the Riigikogu, the provisions of the international agreement shall apply.

*Equality of Rights and Obligations of Natural and Legal Persons of  
the Republic of Estonia and of Foreign States*

3. Natural and legal persons (hereinafter persons) of the Republic of Estonia and of foreign states shall be equal in exercising the rights and duties prescribed in this Act and by other legal acts providing legal protection of layout-designs of integrated circuits, taking into account the restrictions provided for in this Act for persons of foreign states.

**II. Bases for Legal Protection of Layout-Designs**

*Definition of Integrated Circuit*

4. For the purposes of this Act, “integrated circuit” means a final or intermediate product with an electronic function, where its elements (including at least one active element) and the connections between elements or a part of them have been carried out in the basic material or on its surface.

*Definition of Layout-Design of Integrated Circuit*

5. For the purposes of this Act, “layout-design of integrated circuit” means the reproduction of the three-dimensional disposition of the elements of integrated circuit and of all or some of the interconnections between the elements, or a reproduction of a three-dimensional disposition that is meant for manufacturing the integrated circuit, with at least one element being an active element.

*Definition of Commercial Exploitation*

6.—(1) For the purposes of this Act, “commercial exploitation” means the selling, rental, or leasing, also the offering for sale, rental or leasing, importing or any other method of distribution of a layout-design of integrated circuit, including distribution as part of a product.

(2) Exploitation under conditions of confidentiality, where the layout-design of integrated circuit is not available to third persons, shall not be considered as commercial exploitation.

*Definition of Reproduction*

7. For the purposes of this Act, “reproduction” means any method of copying of a layout-design of integrated circuit, including copying for the purpose of manufacturing the integrated circuit.

*Granting of Legal Protection of Layout-Designs*

8.—(1) Legal protection shall be granted to layout-designs that are original and have not been commercially exploited in any part of the world for more than 2 years prior to the filing of the application for registration of the layout-design in the State Register of Layout-Designs (hereinafter Register).

(2) The layout-design is original where it results from the creative activity of its creator and it is not commonplace for other creators and manufacturers of layout-designs by the time of its creation.

(3) A complete layout-design of integrated circuit consisting of commonplace layout-designs shall be granted legal protection where it, taken as a whole, complies with the requirements of Subsection 1 of this Section.

(4) A part of a layout-design of integrated circuit shall be granted legal protection where this part fulfills a clearly determined electronic function and complies with the requirements of Subsection 1 of this Section.

(5) Legal protection shall not extend to the technology of manufacturing layout-designs and integrated circuits or to the information stored in them.

(6) Legal protection shall be granted by registering the layout-design in the Register pursuant to procedure provided for in this Act.

(7) The scope of legal protection of layout-design shall be determined on the basis of the documents identifying the layout-design that have been entered in the Register. Legal protection shall be considered to have been granted to the layout-design identified in these documents.

(8) Legal protection shall not be granted to the layout-design that, within 15 years from the establishment of the moment of its creation, has not been:

1. filed for registration in the Register;
2. commercially used in any part of the world by the person having filed an application for registration of the layout-design in the Register, or with his consent.

#### *Duration of Legal Protection of Layout-Design*

**9.**—(1) The legal protection of layout-design shall be granted for 10 years and it shall cease after the expiration of 10 calendar years from the last calendar day of the first year of legal protection of the layout-sign.

(2) The first day of the legal protection of layout-design shall be considered the first day of commercial exploitation of the layout-design in any part of the world where, within two years from this date, an application has been filed for registration of the layout-design in the Register.

(3) Where, prior to the filing of the layout-design for registration in the Register, this layout-design has not been commercially used in any part of the world, the first day of the legal protection shall be considered the day of filing the application.

### **III. Author of Layout-Design and Owner of Layout-Design**

#### *Author of Layout-Design*

**10.**—(1) The author of layout-design shall be the natural person who, through his creative activity, has made the layout-design.

(2) Where the layout-design has been made through combined creative activities of several natural persons, they shall enjoy co-authorship.

(3) Upon co-authorship the authors shall enjoy all the rights together unless otherwise provided for in the written agreement concluded between them.

(4) Authorship is inalienable and indefinite in time.

### *Rights of Author of Layout-Design*

**11.—**(1) The author of layout-design shall enjoy the following private non-property rights:

1. right to demand the disclosure of his name as the author;
2. right to prohibit the disclosure of his name as the author;
3. right to cancel the prohibition of the disclosure of his name at any moment.

(2) The private non-property rights of the author of layout-design shall be inseparable from his person and they shall not be transferable during the lifetime of the author.

(3) The property right of the author of layout-design is the right to a fair share from the income received from reproduction and commercial exploitation of the layout-design. This right may be alienated by the author and it shall be transferred to the successor.

### *Right to Apply for Registration of Layout-Design*

**12.—**(1) The right to apply for registration of layout-design and to become the owner of layout-design shall belong to the author or to the person to whom the author has transferred the right to apply for registration of layout-design or to whom this right has transferred.

(2) In case the layout-design has been made in the course of fulfilling a contractual or work assignment, the right to apply for registration of layout-design and to become the owner of layout-design shall belong to the employer or to the subscriber unless otherwise specified in the work assignment or contract.

(3) Several persons may apply for registration of layout-design jointly.

(4) A person referred to in Subsection 1 or 2 of this Section may solely apply for registration of the layout-design that is in compliance with the provisions of Section 8(1) to (4) of this Act.

### *Exercise of Right to Apply for Registration of Layout-Design*

**13.—**(1) Any person who complies with the requirements of Section 12 of this Act and who is a citizen of the Republic of Estonia or of any state acceded to the Agreement establishing the World Trade Organization (hereinafter member state of WTO) or who is a resident of or located in the Republic of Estonia or any member state of WTO or who used the layout-design commercially for the first time in the Republic of Estonia or in any member state of WTO, or the legal successor of this person.

(2) Any person who complies with the requirements of Section 12 of this Act but who is not a citizen or resident of or located in the Republic of Estonia or any member state of WTO or who has not used the layout-design commercially for the first time in the Republic of Estonia or in any member state of WTO, may exercise the right to apply for registration of layout-design solely on the basis of multilateral agreements concluded between states.

### *Owner of Layout-Design*

**14.** The owner of layout-design shall be the person whose name has been entered in the Register as owner of layout-design. The owner enjoys full legal power (exclusive right) over a registered layout-design.

### *Rights of Owner of Layout-Design*

**15.—**(1) The owner of layout design shall have exclusive right to reproduce and commercially exploit the layout-design.

(2) The owner of layout-design shall have the right to:

1. prevent third persons, without his consent, from reproducing and commercially exploiting the layout-design;

2. demand the person who has infringed the rights provided for in Subsection 1 of this Section, to stop the infringement of the said rights, to eliminate the results of the infringement and to compensate for the damages caused by the infringement;

3. demand from a person who has, in good faith, obtained an integrated circuit containing a registered layout-design that has been disseminated without the consent of the owner of layout-design, a reasonable compensation for further commercial exploitation of the integrated circuit, after notifying him of the rights of the owner. The amount of the compensation shall be specified on the basis of the extent of further commercial exploitation of the integrated circuit;

4. use the capital letter T as a warning sign for marking an integrated circuit containing a registered layout-design and in the publications describing the said layout-design.

(3) The rights of the owner of layout-design may be limited solely in cases and pursuant to the procedure prescribed by law.

### *Proceedings not Infringing Rights of Owner of Layout-Design*

**16.—**(1) The following proceedings shall not be considered as infringement of the rights of the owner of layout-design:

1. the non-commercial exploitation of the layout-design;

2. the reproduction of the layout-design for analysing, research or teaching purposes;

3. the commercial exploitation of the layout-design that has been obtained as a result of activities specified in clause 2 of this Section, where this layout-design complies with the requirements of Section 8(1) to (4) of this Act;

4. the independent creation of an identical layout-design by a third person.

### *Exhaustion of Rights*

**17.** The owner of layout-design shall not be entitled to prevent the further commercial exploitation of an integrated circuit containing a registered layout-design that has been put into circulation by him or with his consent in the territory of the Republic of Estonia or of any member state of the Agreement on the European Economic Area.

## **IV. Application for Registration of Layout-Design and its Filing**

### *Application for Registration of Layout-Design*

**18.** The application for registration of layout-design (hereinafter registration application) may cover solely one layout-design.

### *Documents of Registration Application*

**19.**—(1) The registration application shall contain the following documents:

1. the request for the registration of the layout-design;
2. the documents identifying the layout-design;
3. the document proving the payment of the fee;

4. the authorisation where the registration application is submitted through an Estonian patent attorney (hereinafter patent attorney) who is a patent attorney in the meaning of Section 91 (1) and (2) of the Trademarks Act (RT 1992, 35, 459; RT I 1998, 15, 231) or where the applicants have a common representative.

(2) The registration application may be accompanied by other documents that the applicant for the registration of layout-design (hereinafter applicant) considers to be necessary.

(3) Where the documents submitted in addition to the registration application in compliance with Subsection 2 of this Section contain business secrets, the applicant shall be entitled to prohibit the disclosure of the registration application.

### *Request for Registration of Layout-Design*

**20.**—(1) The request for the registration of the layout-design shall contain:

1. the statement requesting the registration of the layout-design;
2. the title of the layout-design;
3. the request for determining the first day of legal protection of the layout-design according to the first day of commercial exploitation;
4. the specification of information not to be disclosed in compliance with Section 19(3) of this Act;
5. where the applicant is a natural person, the full name and address of residence or of location of enterprise of the natural person; where the applicant is a legal person, the name and address of the legal person;
6. information about the possession of the right to apply for the registration of the layout-design in compliance with the provisions of Section 12(1) and (2) of this Act;
7. the full name and address of the author;
8. the prohibition of the disclosure of the full name and address of the author, where the author has prohibited their disclosure;
9. where the application is filed through a patent attorney, the full name of the patent attorney;
10. where the applicants have a common representative who is a natural person, the full name of the natural person; where the representative is a legal person, the name of the legal person;
11. the address of correspondence of the applicant;
12. the signature of the applicant, the patent attorney or the common representative.

### *Documents Identifying Layout-Design*

21.—(1) The documents identifying the layout-design shall give a clear and complete designation of the layout-design.

(2) The documents identifying the layout-design may contain the drawings or photos of the layout-design, the mask or the part of it that has been or can be used for manufacturing this layout-design, and the different layers of the layout-design.

(3) Where the layout-design filed for registration is only a part of the layout-design designated in the documents referred to in Subsection 2 of this Section, the part filed for registration must be clearly specified.

### *Filing of Registration Application*

22.—(1) The registration application shall be filed with the Patent Office.

(2) The registration application may be filed personally or by mail. A registration application transmitted by telefax or by other means of electronic communication shall not be received.

(3) The document proving the payment of the fee shall be submitted at the date of receipt of the registration application or within one month from the date of receipt of the registration application.

(4) The power of attorney shall be submitted at the date of receipt of the registration application or within two months from the date of receipt of the registration application.

(5) The claim for determining the first day of legal protection of layout-design according to the first day of commercial exploitation of layout-design shall be submitted on the date of receipt of the registration application.

(6) The formal requirements of application documents and the procedure for filing registration applications shall be specified by the Government of the Republic or by the Minister authorised by it.

### *Representation of the Applicant*

23.—(1) An applicant may independently file a registration application and arrange matters connected with the applying for registration of layout-design and the maintaining of the layout-design registration, or it may be done through a patent attorney. The authority of the patent attorney shall be specified in the power of attorney issued by the applicant.

(2) An applicant residing or located outside the Republic of Estonia may file a registration application himself or through a patent attorney. Further matters connected with the applying for registration of layout-design and the maintaining of the layout-design registration shall be arranged solely through a patent attorney.

(3) Where several applicants file a registration application jointly, they shall, for arranging matters connected with the applying for registration of layout-design and the maintaining of the layout-design registration, appoint a patent attorney or one of them as a representative (common representative), who is residing or located in the Republic of Estonia. The authority of the common representative shall be specified in the power of attorney issued by the applicants.



### *Authorisation*

**24.**—(1) The authorisation may be in unattested written form.

(2) The authorisation shall contain:

1. where the applicant is a natural person, the full name and address of residence or of location of enterprise of the natural person; where the applicant is a legal person, the name and address of the legal person;
2. where the patent attorney has been appointed, the full name of the patent attorney;
3. where a common representative has been appointed and where he is a natural person, the full name and address of residence or of location of enterprise of the natural person; where the common representative is a legal person, the name of the legal person;
4. the scope of the authority;
5. where the applicant authorises the representative to transfer the authority, the right to transfer the authority;
6. where the authorisation is terminal, the term of the authority;
7. the signature of the applicant;
8. the place and date the authorisation is issued.

## **V. Processing of Registration Application**

### *Processor of Registration Application*

**25.** Proceeding from Article 12(1) of the Paris Convention for the Protection of Industrial Property (RT II 1994, 4/5, 19), the processing of registration applications shall be carried out by the Patent Office.

### *Filing Date of Registration Application and Examination on Filing*

**26.**—(1) Upon receiving the registration application, the Patent Office shall make a notation of reception on each document of the registration application. The notation of reception shall contain:

1. the date of receipt of the registration application;
2. the consecutive number of the received registration application (hereinafter number of the registration application).

(2) The date of receipt of a registration application filed by mail shall be considered the date of receiving it at the Patent Office.

(3) The filing date of the registration application shall be the date of receiving it at the Patent Office provided that at the date of receipt the following are filed:

1. the statement requesting the registration of the layout-design;
2. the documents identifying the layout-design;
3. the name and address of the applicant.

(4) After the filing date of the registration application has been established in compliance with the provisions of Subsection 3 of this Section and the document proving the payment of the fee has been submitted in compliance with the provisions of Section 22(3) of this Act, the Patent Office shall approve the registration application for processing and notify the applicant of this in writing.

(5) Where the applicant must be represented in compliance with Section 23 of this Act, the Patent Office shall approve the registration application for processing after receiving the power of attorney that is in compliance with the provisions of Section 24 of this Act.

(6) An examination dossier shall be opened for each registration application approved for processing.

(7) The examination dossier shall contain the documents of the registration application, correspondence connected with the processing, documents proving the payment of the fee, decisions of the Patent Office and correspondence connected with contesting these decisions.

#### *Refusal to Process Registration Application*

**27.**—(1) The Patent Office shall refuse to process the registration application, making a decision on refusal to process the registration application, in the following cases:

1. the document proving the payment of the fee is missing and it is not submitted within one month from the date of receipt of the registration application;

2. the power of attorney is required upon application for registration and it is not submitted within two months from the date of receipt of the registration application.

(2) The applicant shall be notified in writing of the decision on refusal to process the registration application and the documents of the registration application shall be returned.

(3) The decision on refusal to process the registration application shall contain the following:

1. the date and place the decision is made;

2. the reference to the legislation applied;

3. the reason for the decision;

4. the resolution;

5. the procedure and deadline for contesting the decision;

6. the name and signature of the official having made the decision.

(4) The decision on refusal to process the registration application shall become valid at the date when it is made.

(5) Where the Patent Office refuses to process the registration application, the fee shall be refunded.

#### *Files of Registration Applications, Access to and Release of Information Therefrom*

**28.**—(1) The files of registration applications and their processing is an organised collection of information on the documents of registration applications approved for processing and on their processing. The files shall contain information on the registration application and its processing until the examination dossier is closed.

(2) The following information shall be allowed to be made available: the number of the registration application, the filing date of the registration application, the first day of commercial exploitation, the name of the applicant and the name of the representative of the applicant.

(3) Access to the examination dossier shall be allowed to the applicant, or to the person having a written consent issued by the applicant or notified by the applicant in writing of the filing of the registration examination and of the applicant's right to apply for registration of the layout-design and to become owner of the layout-design, to the competent official of a state agency with supervisory rights and to the court. Information about the author shall not be issued from the examination dossier if the author has prohibited the disclosure of his name; information not to be disclosed in compliance with Section 19(3) of this Act shall not be made available from the examination dossier.

(4) Information from the files is available upon payment, except when requested by a state agency with supervisory rights or by court. A fee shall be levied for the issue of information.

(5) The files shall be established by the Patent Office.

*Examination of Contents and Formal Requirements of Documents of  
Registration Applications Approved for Processing*

**29.**—(1) The Patent Office shall examine:

1. the existence of the documents of the registration application specified in Section 19 of this Act and their compliance with formal requirements;

2. the compliance of the contents of the documents of the registration application with the provisions of Sections 18, 20 and 21 of this Act.

(2) The Patent Office shall not examine:

1. the compliance of the layout-design with the provisions of Section 8(1) to (4) of this Act;

2. the right of the applicant to apply for registration of layout-design according to the provisions of Section 12 (1) and (2) of this Act.

(3) Where the applicant, in compliance with Section 9(2) of this Act, has claimed the establishment of the first day of legal protection of layout-design according to the first day of commercial exploitation, the Patent Office shall specify the said date.

(4) Upon deficiencies regarding the form and contents of the documents of the registration application or upon other factors preventing the processing of the registration application, the Patent Office shall notify the applicant of this in writing, designating a deadline of two months for elimination of deficiencies or for providing explanations.

(5) Upon a corresponding request from the applicant, the Patent Office shall extend the deadline for elimination of deficiencies or for providing explanations for up to six months from the beginning of the deadline specified in Subsection 4 of this Section. The request together with the document proving the payment of the fee must be submitted prior to the end of the deadline specified in Subsection 4 of this Section.

### *Corrections and Amendments to Registration Application*

**30.** The registration application may be corrected and amended by the applicant in the course of the processing, without changing the layout-design as disclosed in the registration application at the filing date of the application.

### *Withdrawal of Registration Application*

**31.—**(1) The applicant may withdraw a pending registration application by submitting a corresponding request in writing. The Patent Office shall consider the registration application withdrawn at the date of receipt of the request at the Patent Office. The documents of the registration application shall not be returned.

(2) The Patent Office shall consider the registration application withdrawn where the applicant has failed to respond to the invitation of the Patent Office to eliminate deficiencies in the registration application or to provide explanations by the deadline specified in compliance with Section 29(4) and (5) of this Act.

### *Termination of Processing of Registration Application*

**32.—**(1) Where the registration application has been withdrawn or is considered to be withdrawn, the Patent Office shall terminate the processing of the registration application and notify the applicant of this in writing.

(2) The examination dossier of the registration application that has been withdrawn or is considered to be withdrawn shall be closed and preserved permanently and under conditions of confidentiality in the archives of the Patent Office.

### *Resuming of Application Processing*

**33.** The Patent Office shall resume the processing of a registration application on a decision of the Board of Appeal or of the court, and it shall re-open the closed examination dossier.

### *Decision on Registration of Layout-Design*

**34.—**(1) Where the registration application complies with the requirements of Sections 18 to 21 of this Act, the Patent Office shall make a decision on registration of layout-design without examining the right of the applicant to file a registration application, the correctness of the details disclosed in the application or the originality of the layout-design, and shall notify the applicant of the decision in writing.

(2) The decision on registration of layout-design shall contain the following:

1. the date and place the decision is made;
2. the reference to the legislation applied;
3. the resolution on registration of layout-design in the Register;
4. the first day of legal protection;
5. the procedure and deadline for contesting the decision;
6. the name and signature of the official having made the decision.

(3) The decision on registration of layout-design shall enter into force at the date it is made.

#### *Decision on Refusal of Registration of Layout-Design*

**35.**—(1) Where the registration application does not comply with the requirements of Sections 18 to 21 of this Act, the Patent Office shall make a decision on refusal of registration of layout-design and notify the applicant of the decision in writing.

(2) The decision on refusal of registration of layout-design shall contain the following:

1. the date and place the decision is made;
2. the reference to the legislation applied;
3. the reason for the decision;
4. the resolution;
5. the procedure and deadline for contesting the decision;
6. the name and signature of the official having made the decision.

(3) The decision on refusal of registration of layout-design shall enter into force at the date it is made.

#### *Cessation of Processing of Registration Application*

**36.**—(1) The processing of a registration application at the Patent Office shall cease with registration of layout-design in the Register or with refusal of registration of layout-design.

(2) After registration of layout-design in the Register, the examination dossier shall be closed and added to the Register.

(3) Where the Patent Office refuses to register the layout-design, the examination dossier shall be closed after the expiration of the deadline for lodging an appeal or, upon contest, after the contesting procedure, and it shall be preserved permanently and under conditions of confidentiality in the archives of the Patent Office.

#### *Contest of Decisions of Patent Office*

**37.**—(1) The decisions of the Patent Office may be contested pursuant to procedure specified in Sections 41 to 54 of the Industrial Design Protection Act (RT I 1997, 87, 1466).

(2) The applicant may appeal against the decision of the Patent Office on:

1. refusal to process the registration application;
2. refusal of registration of layout-design;
3. termination of the application processing.

(3) The applicant may appeal against the decision of the Patent Office on the registration of layout-design where the Patent Office has not considered the first day of commercial exploitation of the layout-design to be the first day of legal protection.

## VI. State Register of Layout-Designs

### *Maintenance of Register*

- 38.**—(1) The Patent Office shall be the chief and authorised processor of the Register.
- (2) The registry secretary shall be responsible for the maintenance of the Register at the Patent Office and for making the decisions on entry in the Register.
- (3) The Register shall be maintained on paper carrier. The Register may be maintained on computer, storing the entries as print-outs.
- (4) The Register shall be maintained in Estonian. Documents in foreign languages shall be submitted to the authorised processor together with the translation into Estonian.
- (5) The maintenance expenses of the Register shall be covered from the State Budget via the budget of the Patent Office.
- (6) The Government of the Republic shall establish the Register and ratify the regulation on the maintenance of the Register.

### *Registration of Layout-Design in Register*

- 39.**—(1) A layout-design shall be registered in the Register by entering the data of the layout-design registration (hereinafter registration) in the entry book on the basis of the decision on registration of layout-design.
- (2) The data of the registration are the following:
1. the number of the registration;
  2. the date of registration;
  3. the title of the layout-design;
  4. the data identifying the layout-design;
  5. the full name and address of the author of layout-design;
  6. the full name, address and zip code of residence or of location of enterprise of the owner of layout-design; where the owner is a legal person, the name, address and zip code of location of the owner;
  7. the date of the beginning of the term of registration;
  8. the date of the end of the term of registration;
  9. where a patent attorney has been appointed, the full name of the attorney;
  10. where the common representative is a natural person, the full name of the natural person; where the common representative is a legal person, the name of the legal person;
  11. the number of the registration application;
  12. the filing date of the registration application;
  13. the first day of commercial exploitation of layout-design.
- (3) The registrations shall be numbered in the order of registration of the layout-designs.

(4) The applicant who has been mentioned in the decision on registration of layout-design, shall be entered in the Register as the owner of layout-design.

(5) The documents identifying the layout-design shall be kept in the registry dossier.

(6) The data of the registration shall be entered in the Register within five workdays from the date of making the decision on registration of layout-design.

(7) Where the applicant has indicated the first day of commercial exploitation of the layout-design in the registration application but in the decision on registration of layout-design that date has not been determined as the date of the beginning of the term of registration and the applicant has not contested it, the data of the registration shall be entered in the Register after the lapse of two months from the date of making the decision on registration of layout-design.

(8) The date of registration shall be deemed to be the date when the registry secretary signs the entry of the data of registration.

#### *Term of Layout-Design Registration*

**40.** The term of the layout-design registration shall begin retroactively from the filing date of the registration application or, where somewhere in the world the layout-design has been commercially exploited for the first time during the period specified in Section 8(1) of this Act before the filing date of the registration application, from the first day of commercial exploitation of the layout-design, and it shall be valid for 10 years from the last day of the first year of the term of the registration.

#### *Composition of Register*

**41.** The Register consists of the entry book, the examination dossiers and the registry dossiers. The entry book consists of registry cards that are bound together into the volumes of the entry book.

#### *Entry in Register*

**42.—(1)** An entry in the Register shall be the entry of the data of registration, the entry of the change of the data of registration, the entry of registration of licence and the entry of deletion of registration.

(2) An entry in the Register shall contain the following:

1. the text of the entry;
2. the date of the entry;
3. the signature of the registry secretary.

(3) On the registry card the entries in the Register shall be numbered in the order of their registration.

(4) The entry of the change of the data of registration, the entry of registration of licence or the entry of deletion of registration shall be made within five workdays from the date of making the decision on entry in the Register.

(5) The entry in the Register shall become valid from the date of signing it by the registry secretary.

(6) An announcement of the entry in the Register shall be published in the Official Gazette of the Patent Office.

(7) The date of publication of the announcement of the entry of the data of registration shall be entered in the entry book.

#### *Availability of Register and Issue of Information*

**43.**—(1) The Register shall be public. Everyone shall have the right to examine the examination dossier, the registry dossier and the entry book and to obtain copies thereof.

(2) Where the author has prohibited the disclosure of his name, data of the author shall not be issued from the Register; information not to be disclosed pursuant to Section 19(3) of this Act shall not be issued from the Register.

(3) A fee shall be paid for issuing information from the Register, except for issuing information to a state agency with supervisory rights or to the court.

#### *Maintenance and Storage of Register*

**44.**—(1) The Register shall be maintained in the premises of the Patent Office, the removal of the Register shall be forbidden.

(2) The documents of the Register shall be permanently stored in the archives of the Patent Office.

#### *Liability of Authorised Processor*

**45.** Damages caused by the unlawful action of the authorised processor shall be compensated for by the State.

#### *Layout-Design Certificate*

**46.**—(1) The layout-design certificate (hereinafter certificate) shall be a document certifying the layout-design registration and the exclusive right of the owner of layout-design to the layout-design.

(2) The certificate shall be issued in the name of the Republic of Estonia.

(3) The certificate shall contain:

1. the name of the state - the Republic of Estonia;
2. the coat of arms of the state - the small coat of arms of the Republic of Estonia;
3. the number of the certificate;
4. the data of the registration;

5. the data of the agency having issued the certificate (the name and location of the agency, the official title, name and signature of the head of the agency, the seal of the agency);

6. the date of issue of the certificate.

(4) The number of the certificate shall be the number of the registration.

(5) The date of issue of the certificate shall be the date of signing it by the head of the agency having issued the certificate.



(6) The formal requirements for and the order of filling in the form of the certificate shall be designated by the Government of the Republic or by the Minister authorised by it.

#### *Issue of Certificate*

47.—(1) Within ten workdays from the date of entering the layout-design in the Register, the Patent Office shall issue a certificate to the owner of layout-design.

(2) Only one certificate shall be issued, regardless of the number of owners of layout-design indicated in the registration.

(3) The date of issue of the certificate shall be entered in the entry book.

(4) On a request from the owner of layout-design a duplicate of the certificate may be issued to him. The duplicate shall be issued within one month from the receipt at the Patent Office of the request and of the document proving the payment of the fee. An announcement of the issue of the duplicate shall be published in the Official Gazette of the Patent Office.

(5) After changing the data of the registration, the Patent Office shall issue to the owner of layout-design an appendix to the certificate, which shall be an integral part of the certificate.

(6) The appendix to the certificate shall contain the changed data of the registration and the date of entry.

(7) The appendix shall be issued within one month from the date of entry of the change of the data of registration.

### **VII. Transfer and Cessation of Rights**

#### *Transfer of Registration Application*

48.—(1) The applicant may transfer a registration application pending at the Patent Office to another person.

(2) A registration application pending at the Patent Office shall transfer to the legal successor.

(3) For changing the data of the applicant in the application, the applicant or the person to whom the registration application is transferred, shall submit to the Patent Office a corresponding request and the document proving the payment of the fee. Where the request is submitted by the person to whom the registration application is transferred, he must submit the request together with the document proving the transfer or the certified copy thereof.

(4) The data of the registration application referred to in Section 20(5) of this Act shall be amended by the Patent Office.

(5) The registration application shall be deemed to have been transferred to another person from the date of changing the data.

#### *Transfer of Rights of Owner of Layout-Design*

49.—(1) The owner of layout-design may transfer his rights to another person.

(2) The rights of the owner of layout-design shall transfer to the legal successor.

(3) For changing in the registration of the data of the owner of layout-design, the owner of layout-design or the person to whom the rights of the owner transfer shall submit to the Patent Office a corresponding request and a document proving the payment of the fee. Where the request is submitted by the person to whom the rights of the owner transfer, the request shall be accompanied by a document proving the transfer or the certified copy thereof.

(4) The request mentioned in Subsection 3 of this Section shall be submitted within one year from the date of the transfer of rights as specified in the transaction, or from the date of establishment of legal succession. Where the rights of the owner transfer on the basis of a court order, the request shall be submitted within one month from the effective date of the court order.

(5) The Patent Office shall enter in the Register the change of the data of registration mentioned in Section 39(2)6 of this Act.

(6) The rights of the owner of layout-design shall be deemed to have transferred from the date of transfer of the rights as specified in the transaction or in the court order, or from the date of establishment of legal succession.

(7) A person to whom, in compliance with this Section, the rights of the owner have transferred, shall be entitled to exercise them from the date of entering into force of the entry of the change of data of the registration.

#### *Licence*

**50.**—(1) By licence the owner of layout-design (licenser) may transfer, in whole or in part, the rights of the owner of layout-design referred to in Section 15 of this Act into the use of one or more persons (owner of rights or licensee).

(2) With the consent of the licenser, the licensee may transfer the rights proceeding from the licence to a third person by a sub-licence.

(3) The term of the licence shall not exceed the term of the legal protection of the layout-design.

(4) The licence may be registered in the Register.

(5) Upon the collision of rights transferred to several licensees by different licences, the prerogative shall belong to the licensee whose licence has been registered in the Register.

(6) A licence not registered in the Register shall have no legal right with regard to a third person.

(7) Upon granting a licence, a licence agreement shall be concluded in writing.

#### *Validity of Licence Upon Deletion of Registration From Register and Upon Transfer of Rights of Owner of Layout-Design*

**51.**—(1) Upon the deletion of the registration from the Register after the end of the term of the registration provided for in Section 40 of this Act, the validity of the licence shall expire on the last day of the term of the registration.

(2) Upon deletion of the registration from the Register on the basis of an effective court order adjudicating the registration as being in conflict with the provisions of Section 12(4) or of Section 34(1) of this Act, the licence shall become null from the day of its issue.

(3) Where the rights of the owner of layout-design transfer to another person in cases stipulated in Section 49 of this Act, the rights and duties proceeding from the licence shall also transfer.

#### *Registration of Licence in Register*

**52.**—(1) For the registration of the licence in the Register, the licensor or the licensee shall submit to the Patent Office a corresponding request, the licence agreement or the certified copy thereof and the document proving the payment of the fee.

(2) The request for entering the licence in the Register shall contain the following:

1. the name and residence or location of the licensor;
2. the name and residence or location of the licensee;
3. the subject of the licence;
4. the list of rights granted to the licensee;
5. the term of the licence;
6. other data considered necessary by the licensor and the licensee to be entered in the Register.

(3) Instead of the licence agreement or the certified copy thereof, a certified excerpt from the licence agreement may be submitted to the Patent Office, containing the data mentioned in Subsection 2 of this Section.

(4) The Patent Office shall enter the registration of licence in the Register.

(5) The entry of registration of licence shall be deleted from the Register upon the end of the term of the licence or upon a corresponding agreement between the licensor and the licensee.

#### *Bases for Cessation of Rights of Owner of Layout-Design*

**53.**—(1) The rights of the owner of layout-design shall cease upon the end of the term of the registration in compliance with Section 40 of this Act.

(2) The rights of the owner of layout-design shall cease prior to the term stipulated in Section 40 of this Act in the following cases:

1. where the owner of layout-design abandons his rights without transferring his rights to another person;
2. upon the death of the owner where the owner is a natural person, or upon the dissolution of the legal person where the owner is a legal person and there is no legal successor;
3. on the basis of an effective court order where the registration has been adjudicated as being in conflict with the provisions of Sections 18 to 21 or 29(3) of this Act;
4. on the basis of an effective court order where the registration has been adjudicated as being in conflict with the provisions of Section 12(4) of this Act;
5. on the basis of an effective court order adjudicating that the owner mentioned in the registration had no right, in compliance with Section 12(1) and (2) of this Act, to apply for registration of layout-design and the person adjudicated as the owner of layout-design has

failed to submit, pursuant to the procedure prescribed by Section 49(3) and (4) of this Act, a request for changing in the registration the entry concerning the owner of layout-design.

(3) The cessation of the rights of the owner of layout-design shall be based on the entry of deletion of registration in the Register.

#### *Entering Deletion of Layout-Design Registration in Register*

**54.**—(1) The Patent Office shall enter the deletion of registration in the Register in compliance with the provisions of Section 53(1) of this Act within five workdays from the end of the term of the registration in compliance with Section 40 of this Act.

(2) For entering the deletion of registration in the Register in cases prescribed by Section 53(2)1, 2, 4 and 5 of this Act, the owner of layout-design or an interested person shall submit to the Patent Office a corresponding request. Where the request is submitted by an interested person, it shall be accompanied by the documents certifying the claim.

(3) The Patent Office shall not enter the deletion of registration in the Register in compliance with Section 53(2)1 where the rights of the owner of layout-design are the subject of a registered licence.

(4) The Patent Office shall enter the deletion of registration in the Register pursuant to Section 53(2)3 of this Act and it shall resume the processing of the registration application pursuant to Section 33 of this Act.

#### *Legal Consequence of Entry of Deletion of Registration*

**55.**—(1) Upon making the entry of deletion of registration in compliance with Section 53(1) of this Act, the rights of the owner of layout-design shall cease as of the last day of the term of the registration.

(2) Upon making the entry of deletion of registration in compliance with Section 53(2)1 of this Act, the rights of the owner of layout-design shall cease as of the day following the date of entry.

(3) After deleting the registration from the Register, anyone may reproduce and commercially exploit the layout-design. The said right shall be retroactive until the date of cessation of the rights of the owner of layout-design.

### **VIII. Contest and Protection of Rights**

#### *Contest of Authorship of Layout-Design*

**56.**—(1) Disputes concerning authorship of layout-designs entered in the Register shall be settled by the court.

(2) Any natural person who considers himself to be the author of layout-design in compliance with Section 10 of this Act, may bring action against the owner of layout-design for certification of his authorship.

#### *Contest of Rights of Owner of Layout-Design*

**57.**—(1) Any person considering that the rights of the owner of layout-design belong to him in compliance with Section 12(1), (2) and (3) of this Act, may bring action against the owner of layout-design for certification of his rights.

(2) The action mentioned in Subsection 1 of this Section may be brought within one year from the publication of the announcement about the entry of the data of the registration.

(3) Any person who considers that another person who became the owner of layout-design had no right, in compliance with the provisions of Section 12(4) of this Act, to file a registration application and become the owner of layout-design, and where the registration hampers his economic or business transactions, may bring action against the owner of layout-design for adjudication of the registration as illegal.

(4) The action mentioned in Subsection 3 of this Section may be brought during the term of the registration.

#### *Contest of Registration of Layout-Design*

**58.**—(1) Any interested person who considers that the registration of the layout-design by the Patent Office is in conflict with the requirements of Sections 18 to 21 or 29(3) of this Act, may lodge an appeal at the Administrative Court pursuant to procedure provided for in the Administrative Procedure Code (RT I 1993, 50, 694; 1994, 16, 290; 28, 425; 1995, 29, 358 and 359; 1996, 37, 739; 1997, 16, 260; 30, 472; 87, 1468; 93, 1557; 95/96, 1575; 1998, 17, 265; 61, 981), requesting the adjudication of the layout-design registration as illegal and ordering the Patent Office to resume the processing of the registration application and to make a new decision.

(2) The appeal referred to in Subsection 1 of this Section shall be lodged within three months from the publication of the announcement about the entry concerning the data of the registration.

#### *Protection of Rights of Author of Layout-Design*

**59.**—(1) The right of the author of layout-design to bring action upon the infringement of his rights stipulated in Section 11(1) of this Act or for the establishment of other rights proceeding from his authorship shall be indefinite of time.

(2) For settling a property dispute connected with the layout-design, the author may bring action within three years from the date when he was aware or should have been aware of the infringement of his rights.

#### *Protection of Rights of Owner of Layout-Design*

**60.**—(1) The owner of layout-design may bring action:

1. for disposal of the infringement of exclusive right;
2. for preventing the repetition of the infringement of exclusive right;
3. for restoring the status quo before the infringement of exclusive right commenced;
4. for compensation for damages caused by the infringement of exclusive right;
5. for settling disputes arising from the licence;
6. in other cases of infringement of the rights of the owner.

(2) Actions mentioned in this Section may be brought as follows:

1. actions referred to in clauses 1 to 3 of Subsection 1-during the term of the registration of layout-design;

2. actions referred to in clauses 4 and 6 of Subsection 1-within three years from the day when the owner of layout-design became aware or should have become aware of the infringement of his rights;

3. actions referred to in clause 5 of Subsection 1-during the validity of the licence.

#### *Order for Settlement of Layout-Design Disputes*

**61.**—(1) The appeals and actions referred to in this Act belong to the jurisdiction of the court of location of the Patent Office.

(2) A transcript of an effective court order passed with regard to a layout-design dispute shall be sent to the Patent Office promptly, regardless of whether the Patent Office has been party to the proceeding.

#### *Representative in Court Upon Settlement of Layout-Design Disputes*

**62.**—(1) Upon settlement in court of layout-design disputes, patent attorneys shall be allowed to appear in court as representatives.

(2) The patent attorney shall submit to the court the certificate of a patent attorney and the authorisation issued by the client.

### **IX. Final Provisions**

#### *State Fee*

**63.**—(1) State fees shall be levied for effecting transactions prescribed in this Act according to the rates stipulated in the State Fees Act (RT I 1997, 80, 1344; 86, 1461; 87, 1466 and 1467; 93, 1563; 1998, 2, 47; 4, 63; 23, 321; 36/37, 552 and 553; 52/53, 771; 57, 859; 59, 941; 60, 951; 61, 979 and 985; 64/65, 1004, 1005 and 1008; 86/87, 1408; 97, 1519).

(2) The fee shall be paid by the applicant, by the owner of layout-design or by a third person interested in effecting transactions prescribed in this Act or in the issue of documents. Where the fee for layout-design registration is paid by a third person, the consent of the applicant or of the owner of layout-design shall be required.

(3) The fee shall be deemed to be paid upon the receipt of the document proving the payment at the Patent Office, in case of an appeal at the Board of Appeal that has been established on the basis of Section 35(1) of the Estonian Trade Marks Act.

(4) The fee shall not be refunded, except in cases provided for in Sections 27(5) of this Act.

#### *Amendments to State Fees Act*

**64.**—(1) The State Fees Act (RT I 1997, 80, 1344; 86, 1461; 87, 1466 and 1467; 93, 1563; 1998, 2, 47; 4, 63; 23, 321; 36/37, 552 and 553; 52/53, 771; 57, 859; 59, 941; 60, 951; 61, 979 and 985; 64/65, 1004, 1005 and 1008; 86/87, 1408; 97, 1519) shall be amended with Sections 147<sup>9</sup> to 147<sup>12</sup>, worded as follows:

*“Filing of Layout-Design Registration Application*

**147<sup>9</sup>**. For filing a layout-design registration application, a fee of 1,600 EEK shall be paid.

*Extending of Deadline for Elimination of Deficiencies in  
Layout-Design Registration Application and for Providing Explanations*

**147<sup>10</sup>**. For extending the deadline for the elimination of deficiencies in a layout-design registration application and for providing explanations, a fee of 400 EEK shall be paid.

*Transfer of Layout-Design Registration Application*

**147<sup>11</sup>**. Upon the transfer of layout-design registration application, for submitting a request for changing the data of the applicant, a fee of 500 EEK shall be paid.

*Entries in the Register of Layout-Designs*

**147<sup>12</sup>**.—(1) For entry of the change of data of layout-design registration, a fee of 500 EEK shall be paid.

(2) For entry of the registration of the licence, a fee of 500 EEK shall be paid.”

*Amendments to Code of Administrative Offences*

**65.** ...

(2) The title and text of Section 184<sup>5</sup> of the Code of Administrative Offences (RT 1992, 29, 396; RT I 1997, 66-68, 1109; 73, 1201; 81, 1361 and 1362; 86, 1459 and 1461; 87, 1466 and 1467; 93, 1561, 1563, 1564 and 1565; 1998, 2, 42; 17, 265; 23, 321; 30, 410; 34, 484; 36/37, 552 and 553; 38, 562; 51, 756 and 759; 52/53, 771; 60, 951 and 952; 64/65, 1004; 86/87, 1409; 98/99, 1574) is amended as follows:

with the words “or layout-design” following the words “industrial design”.

*Amendments to Criminal Code*

**66.** The Criminal Code (RT 1992, 20, 287 and 288; RT I 1997, 21/22, 353; 28, 423; 30, 472; 34, 535; 51, 824; 52, 833 and 834; 81, 1361; 86, 1461; 87, 1466, 1467 and 1468; 1998, 2, 42; 4, 62; 17, 265; 23, 321; 30, 412; 36/37, 552 and 553; 51, 756 and 759; 59, 941; 98/99, 1576) is amended as follows:

1. Subsection 6 of Section 33 shall be amended with the words “or layout-design” following the words “industrial design”;

2. the title and Subsection 1 of Section 136<sup>1</sup> shall be amended with words “or the authorship of the layout-design” following the words “the authorship of the industrial design”;

3. the title and text of Section 136<sup>2</sup> shall be amended with words “or the layout-design” following the words “the industrial design”.

*Amendments to Industrial Design Protection Act*

**67.** The Industrial Design Protection Act (RT I 1997, 87, 1466) is amended as follows:

1. clause 4 of Section 9 is amended and worded as follows:

“4) is a layout-design;”;

2. Subsection 1 of Section 87 is amended and worded as follows:

“(1) Upon settlement of industrial design disputes, patent attorneys shall be allowed to appear in court as representatives.”;

3. Subsection 4 of Section 91 is repealed.

*Amendments to Civil Procedure Code*

**68.** Section 141 of the Civil Procedure Code (RT I 1998, 43-45, 666) is amended by adding Subsection 6 worded as follows:

“(6) The exceptional jurisdiction of some actions may be prescribed by law.”

*Entry into Force of the Act*

**69.** This Act shall enter into force after the lapse of three months from the date of its publication in Riigi Teataja.

---