



Enforcement Decree of Act on the Layout-Design of Semiconductor Integrated Circuits

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Addendum

Chapter 1 General Provisions

Purpose

1. The purpose of this Enforcement Decree is to establish detailed procedures for matters regarding the Act Concerning the Layout-Design of Semiconductor Integrated Circuits (hereinafter referred to as the “Act”) and for matters necessary to implement the Act.

Procedures for Non-Residents

2. “Where allowed under the Presidential Decree” mentioned in Article 4, Paragraph 1 of the Act refers to cases where a non-resident (a non-resident prescribed in Article 4, Paragraph 1 of the Act, or in the case of a corporate entity, its representative) who has appointed a layout-design administrator (hereinafter “a layout-design administrator”) as prescribed in Article 3 of the Act stays in Korea.

Justifiable Reasons for Non-Use of Layout-Design

3.—(1) Any of the following items shall constitute “justifiable reasons as determined by the Presidential Decree” mentioned in Article 13, Paragraph 1, Item 1 of the Act:

1. where the layout-design as prescribed in Article 2, Item 2 of the Act (hereinafter referred to as the “layout-design”) has not been used by a person who has registered for establishment as prescribed in Article 21, Paragraph 1 of the Act, a person who has succeeded to the rights therefrom (hereinafter referred to as the “holder of the layout-design right”), or an exclusive licensee as prescribed in Article 11, Paragraph 2 of the Act (hereinafter referred to as the “exclusive licensee”) due to his mental or physical disorder, to be certified by the representative of a medical institution above the hospital grade as prescribed in Article 3, Paragraph 4 of the Medical Treatment Act;

2. where the layout-design has not been used because of the delays therein in cases where the license or approval of the administrative agency, or consent or permission of other persons are necessary for use of the layout-design as prescribed in Article 2, Paragraph 4 of the Act (hereinafter referred to as the “use of the layout-design”);

3. where the layout-design has not been used because raw materials or facilities necessary for using the layout-design are prohibited to be imported; or

4. where the layout-design has not been used because it is impossible to use the layout-design on a business scale due to a lack or shortage of demand for use of the layout-design.

(2) The above items in Paragraph 1 shall apply *mutatis mutandis* to “justifiable reasons” mentioned in Article 13, Paragraph 1, Item 2 of the Act.

Application for Arbitration

4.—(1) A person who wishes to apply for arbitration of establishment of a non-exclusive license as prescribed in Article 12 of the Act (hereinafter referred to as the “non-exclusive license”) under Article 13, Paragraph 2 or 3 of the Act (hereinafter referred to as the “applicant for arbitration”) shall submit an application to the Commissioner of the Korean Industrial Property Office, in which the following information shall be provided (hereinafter referred to as the “application for mediation”):

1. the registration number of the layout-design right;
2. the applicant’s name, address, and resident registration number (or, in the case of a corporate entity, the trade name, place of business and name of representative);
3. the name, address and resident registration number of the layout-design right holder, or of any other person(s) who have registered for an exclusive license, a non-exclusive license, and a pledge thereof as prescribed in Article 16 of the Act (hereinafter referred to as the “rights relating to the layout-design”) (or, in the case of a corporate entity, the trade name, place of business and name of representative);
4. the purpose and reason(s) for the application;
5. the scope of the non-exclusive license; and
6. the amount of compensation, and the method and time for making the compensation.

(2) An application for arbitration as prescribed in Paragraph 1 shall be accompanied by the following documents:

1. documents presenting the grounds for the amount of compensation in consideration of the economical value of the layout-design right or exclusive license; and
2. documents as proof of the reason for the application.

Delivery of the Copy of and Public Notification of the Application for Arbitration

5.—(1) Where there is an application as prescribed in Article 4 above, the Commissioner of the Korean Industrial Property Office shall deliver a copy of the application for arbitration, and grant an opportunity to the layout-design right holder and any other person(s) who have registered for the rights regarding layout-design to submit a written reply within the period provided (between one (1) and three (3) months). Notwithstanding the



above provision, in the case of an arbitration application under Article 13, Paragraph 3, the procedure for submitting a written reply may be omitted.

(2) Where there is a reply submitted in accordance with Paragraph 1 above, the Commissioner of the Korean Industrial Property Office shall deliver a copy of the written reply to the applicant.

(3) Where there is an arbitration application as prescribed in Article 4 above, the Commissioner of the Korean Industrial Property Office shall make public notification of the application's purpose in the Official Gazette or the Patent Gazette as prescribed in Article 221 of the Patent Act (hereinafter referred to as the "Official Gazette").

Abuse of Right

6. "Cause as provided in the Presidential Decree" mentioned in Article 13, Paragraph 4, Item 2 of the Act means one of the following:

1. Where corrective measures have been ordered by the Fair Trade Commission under Article 24 of the Monopoly Regulation and Fair Trade Act (hereinafter referred to as the "MRFTA") to be taken against non-use of a layout-design by the layout-design right holder or by the exclusive licensee where the non-use of the layout-design constitutes either "abusive practices" as prescribed in Article 3-2 of the MRFTA or "unfair practices" as prescribed in Article 23 of the MRFTA; or

2. Where the layout-design fails to be used within Korea on a substantial business scale for over two consecutive years, or fails to satisfy demands in Korea in proper terms and conditions.

Certificate of Arbitration

7. When an arbitration is awarded under Article 13, Paragraph 4 of the Act (hereinafter referred to as the "arbitral award"), the following items shall be prescribed in the certificate of arbitration (hereinafter referred to as the "certificate of arbitration"):

1. a serial number of the arbitral awards;
2. the registration number of the layout-design right;
3. the applicant's name, address, and resident registration number (or, in the case of a corporate entity, the trade name, place of business, and name of representative);
4. the name, address and resident registration number of the layout-design right holder, and of any other person(s) who have registered for the rights relating to the layout-design (or, in the case of a corporate entity, the trade name, place of business and name of representative);
5. the main texts of the arbitral award (including contents of the arbitral awards as defined in Article 13, Paragraph 5 of the Act);

6. the reason(s) for the arbitral award (including the purport and reason(s) for the application for arbitration); and
7. the date of the arbitral award being made.

Delivery of a Copy of the Certificate of Arbitration

8. When the Commissioner of the Korean Industrial Property Office has awarded an arbitration, he shall deliver an official copy of the certificate of arbitration to the applicant, the layout-design right holder and any other person(s) who have registered for the rights relating to the layout-design.

Deposit of Compensation

9. An applicant for arbitration may deposit the compensation when he wishes to pay the compensation under Article 13, Paragraph 5, Item 2 of the Act if:

1. the person who is entitled to receive the compensation refuses or is unable to receive it;
2. a Act suit has been brought regarding the amount of the compensation; or
3. a pledge right, the subject matter of which is the layout-design right or exclusive license, has been established, except in cases where the pledgee agrees to the compensation being paid out.

Procedure for Cancellation of Arbitration

10.—(1) Cancellation of arbitral awards under Article 15, Paragraph 1 of the Act shall be made in writing and the reason thereof shall be specified.

(2) Articles 4, 5, and 8 above shall apply *mutatis mutandis* to the procedure for cancellation of arbitral awards as prescribed in Paragraph 1 above. In this case, “arbitration” is substituted by “cancellation of arbitration,” “application for arbitration” by “application for cancellation of arbitration,” “applicant’ for arbitration” by “applicant for cancellation of arbitration,” and “certificate of arbitration” by “certificate of cancellation of arbitration.”

Chapter 2
Registration of Layout-Design Right

Application for Registration of Establishment of Layout-Design Right

11.—(1) A person who wishes to apply for the registration of establishment of the layout-design right as prescribed in Article 19, Paragraph 1 of the Act shall submit to the Commissioner of the Korean Industrial Property Office an application describing the following items (hereinafter referred to as the “application”):



1. the applicant's name, address, and resident registration number (or, in the case of a corporate entity, the trade name, place of business, and name of representative);
2. the date of application;
3. the date that the layout-design was created;
4. where the Acts as defined in Article 2, Item 4 of the Act are committed for a business purpose with respect to the layout-design, the first date of such Acts;
5. the name, address and resident registration number of the creator of the layout-design (or, in the case of a corporate entity, the trade name, place of business, and name of representative);
6. where there is an agent for application, the full name, address or place of business, and resident registration number of the agent; and
7. other matters as provided for in the Decree of the Ministry of Commerce, Industry and Energy.

(2) The application for registration of establishment shall be accompanied by the following:

1. drawings or photographic pictures representing the layout-design relating to the application, as defined in the Decree of the Ministry of Commerce, Industry and Energy;
2. documents establishing that the applicant is the creator of the layout-design;
3. documents showing authorization when the application is made by an agent who is not the layout-design administrator;
4. certificate of nationality when the applicant is a foreign national; and
5. other documents as provided for in the Decree of the Ministry of Commerce, Industry and Energy.

(3) In submitting documents mentioned in Paragraph 2 above, when the applicant wishes to protect confidential information, he may petition to that effect in writing as prescribed in the Decree of the Ministry of Commerce, Industry and Energy.

Dismissal of Application for Registration of Establishment

12. "Certain conditions provided in the Presidential Decree" as mentioned in Article 20, Paragraph 1, Item 4 of the Act shall exist where:

1. the application does not provide all the information as required by Article 11, Paragraph 1;
2. the matters mentioned in the application are not consistent with the accompanying drawings or other documents as required by Article 11, Paragraph 2;

3. the application is not accompanied by the drawings and other documents required by Article 11, Paragraph 2, or the accompanying drawings, or these are not consistent with each other; or

4. registration fees under Article 40 of the Act have not been paid.

Public Notification in Official Gazette of Registration of Establishment

13.—(1) The Commissioner of the Korean Industrial Property Office shall make public notification in the Official Gazette, etc. where there has been a registration of establishment of the layout-design right under Article 21, Paragraph 1 of the Act.

(2) Specific matters to be included in the Official Gazette as mentioned in Paragraph 1 above shall be provided for in the Decree of the Ministry of Commerce, Industry and Energy.

Format of the Register

14. The Commissioner of the Korean Industrial Property Office shall make the register of registration of establishment of layout-design rights as prescribed in Article 21, Paragraph 2 of the Act (hereinafter referred to as the “register”) on magnetic tapes, etc. The format of, and method of filling in, the register and other auxiliary documentation shall be provided for in the Decree of the Ministry of Commerce, Industry and Energy.

Loss of the Register

15. The Commissioner of the Korean Industrial Property Office shall make a public notice, when the register, or a part thereof, has been lost, that the holder of a layout-design right, who has applied for restoration of the registration within a provided period, which shall not be less than three (3) months, is entitled to the priority awarded prior to the loss.

Applicant for Registration

16. Registration under Article 23, Paragraph 1 of the Act shall be applied jointly by the registration obligee and the registration obligor. The registration obligee, however, may apply alone for registration if:

1. a letter of consent of the registration obligee is attached to the application; or
2. registration is to be made on the basis of a judicial judgment, inheritance, or merger.

Application for Registration other than Registration of Establishment

17.—(1) A person who wishes to apply for registration under Article 4, Paragraphs 3 and 4, and Article 23, Paragraph 1 of the Act shall submit to the Commissioner of the Korean Industrial Property Office an application containing:



1. the applicant's name, address, and resident registration number (or, in the case of a corporate entity, the trade name, place of business, and name of representative);
2. date of application;
3. name, and address or place of business of the agent (if any);
4. registration number of the layout-design right;
5. reason(s) for registration and the date when the reason(s) evolved;
6. where the purpose of registration is related to the rights relating to layout-design, a description of the rights subject to be registered; and
7. where the purpose of registration is related to the layout-design administrator, the name, address and resident registration number of the layout-design administrator (or, in the case of a corporation, the trade name, place of business, and name of representative), and the scope of power of attorney.

(2) A person who wishes to apply for registration of establishment of an exclusive license or a non-exclusive license shall describe the following in addition to the items in Paragraph 1 above:

1. the scope of the exclusive license or the non-exclusive license to be established; and
2. matters, if prescribed in the reasons for registration, relating to the amount of compensation, and the method and time for making the compensation.

(3) A person who wishes to apply for registration of assignment of an exclusive license or a non-exclusive license shall describe, in addition to the items in Paragraph 1 above, the scope of the exclusive license or the non-exclusive license to be assigned.

Accompanying Documents

18.—(1) The following documents shall accompany the application as prescribed in Article 17:

1. document showing the cause of registration;
2. document showing the consent or permission of a third party, if consent or permission is necessary, which may be substituted by placing the seal of the third party on the application;
3. document showing authorization when the application for registration is made by an agent who is not the Layout-design Administrator;
4. certificate of nationality or document as proof of foreign incorporation when the applicant is a foreign national or corporation; and
5. registration obligor's certificate of a seal impression (or corresponding certificate for a foreigner or foreign corporation, for a foreigner of a foreign country where there is no such

system for certificate of seal impression). In such cases, the certificate shall be that issued three (3) months from the submission.

(2) Where the document as proof of the reasons for registration is an enforceable judgement, the documents required under Paragraph 1, Item 2 need not be accompanied.

(3) With regard to Article 17, Paragraph 3, in cases where an exclusive license or a non-exclusive license is transferred in conjunction with the business of using the layout-design, the documents required under Paragraph 1 above shall be accompanied by documents certifying the transfer.

Omission of Accompanying Documents

19.—(1) If more than one application is filed for registration of establishment as prescribed in Articles 11 and 17, only one copy of any overlapping documents needs to be submitted if so stated in the application.

(2) With regard to applying for registration as prescribed in Paragraph 1 above, if any document that is to accompany the application was already submitted and there has been no change in its contents, the document may be omitted if so stated in the application.

Description of Matters relating to Extinguishment of Right

20. The applicant for registration under Article 19, Paragraph 1 (hereinafter referred to as the “applicant”) shall describe in the application, if any, provisions regarding the extinguishment of right which is intended for registration.

Description of Shares

21.—(1) In cases where the layout-design rights or the rights relating to the layout-design are jointly owned by more than two persons, and the terms of the shares are fixed, the shares thereof shall be stated in the application. The same statements shall be made when an application is filed for transfer of a partial interest in a layout-design right or the rights relating to the layout-design.

(2) In cases where the layout-design rights or the rights relating to the layout-design are jointly owned by more than two persons, the applicant shall describe any provisions under Article 10, Paragraph 4 of the Act (including Article 11, Paragraph 6 and Article 12, Paragraph 5 of the Act) or Article 268, Paragraph 1 of the Civil Code on the application.

Accompanying of Family Census Register

22. Where a registration is made due to an inheritance or a merger of corporations, the application shall be accompanied by a certified or abstract copy of the family census register or a document as proof of the facts thereof.

Consolidated Application

23. An application of registration may contain a request for more than one layout-design rights or the rights relating to the layout-design if the reasons and objectives for registration thereof are the same.

Obligee's Subrogation to the Obligor

24. Where an application is based upon the obligee's subrogation to the obligor as prescribed in Article 404 of the Civil Code, the following information must be provided to the Commissioner of the Korean Industrial Property Office on the application, accompanied by a document certifying the reason(s) for the subrogation:

1. the names, addresses, and resident registration numbers of both obligee and obligor (or, in the case of a corporation, the trade name, place of business and name of representative); and
2. the reason(s) for the subrogation.

Notification of Errors or Omissions

25. If any errors or omissions are found after registration as prescribed in Article 21, Paragraph 1 or Article 23, Paragraph 1 of the Act, the Commissioner of the Korean Industrial Property Office shall notify the registration obligee, the registration obligor, or any other party of interest in writing without delay.

Ex Officio Correction

26. If errors or omissions as prescribed in Article 25 were caused by a government official, the Commissioner of the Korean Industrial Property office shall make a correction without delay unless there is a third party of interest, and notify the gist thereof in writing to the obligee and the obligor.

Cancellation of Registration of Establishment of Layout-Design Right

27.—(1) Cancellation of registration of establishment of a layout-design right as prescribed in Article 24 of the Act must be made in writing, and the reason thereof must be specified.

(2) Public notification shall be made in the Official Gazette for cancellation of registration of establishment of a layout -design right as mentioned in Paragraph 1 above.

Patent Registration Decree

28. Articles 2 to 7, 11 to 14, 17, 19 to 23, 30, 33 to 35, and 42 to 63 of the Patent Registration Decree shall apply *mutatis mutandis* to the case where registration is to be made as prescribed in Article 23, Paragraph 1 of the Act. In these cases, "patent right" shall be

substituted by “layout-design right,” “patent” by “layout-design,” “patent register” by “layout-design register,” “patent number” by “registration number of the layout-design right,” “exclusive license” by “exclusive right,” “non-exclusive license” by “non-exclusive use,” and “patent trust register” by “layout-design trust register.”

Chapter 3 Layout-Design Review and Mediation Committee

Chairman and Vice-Chairman

29.—(1) The Chairman of the Layout-design Review and Mediation Committee as prescribed in Article 25, Paragraph 1 of the Act (hereinafter referred to as the “Committee”) shall take charge of the affairs of the Committee, and shall represent the Committee.

(2) The Vice-chairman shall assist the Chairman, and, if the Chairman is absent, the Vice-president shall Act on behalf of the Chairman.

Convocation of Meeting and Quorum

30.—(1) The Chairman shall convene the Committee meeting and preside over it.

(2) When the Chairman convenes the Committee meeting (hereinafter referred to as the “meeting”), he shall notify the review and mediation members (hereinafter referred to as the “members”) of the date and place of the meeting and of issues to be reviewed or mediated in the meeting at least five (5) days before the meeting unless there is an emergency or other unavoidable reason for not doing so.

(3) The Committee shall commence its meeting when two-thirds or more of the members are in attendance and shall make decisions by a concurrent vote of a majority of members present.

(4) No members shall participate in the deliberation or mediation of a case in which he has a direct interest.

Allowances and Travel Expenses of Members

31. Members and expert witnesses participating in the meeting shall receive a duty allowance and travelling expenses within the limits of the committee’s budget. Neither allowance nor expenses shall be paid to a member who, as a public official of a governmental department, participates in the meeting in the course of executing his duties as a government official.



Procedure of Mediation

32.—(1) A person who desires to request a mediation under Article 27, Paragraph 1 of the Act shall submit a request for mediation to the Committee following procedures prescribed by the Committee.

(2) When the Chairman has received a request for mediation under Paragraph 1 above, he shall forward the request to the mediation panel as prescribed in Article 28 of the Act (hereinafter referred to as the “mediation panel”).

(3) In cases where the mediation panel is in receipt of a request for mediation as mentioned in Paragraph 2 above, the mediation panel may provide parties, their agents or other persons interested in the mediation with an opportunity to state their opinions and take into account the opinions of relevant experts.

(4) The mediation panel may prepare a proposal of mediation, present it to the parties concerned, and recommend that it be accepted.

(5) If a mediation is effectuated under Article 29, Paragraph 1 of the Act, the Committee shall report it without delay to the Commissioner of the Korean Industrial Property Office, and shall administer and preserve the protocol and other records concerning the mediation.

Executive Secretary and Other Clerical Staff

33.—(1) There shall be one executive secretary and a few persons serving on the clerical staff of the Committee.

(2) The Commissioner of the Korean Industrial Property Office shall appoint an executive secretary and other clerical staff members from among public officials who are in charge of registration of establishment of layout-design rights under Article 21 of the Act.

(3) The executive secretary shall manage the affairs of the Committee in accordance with the instructions of the Chairman and shall be assisted by other clerical members.

Enforcement Regulations

34. Matters necessary for administration of the Committee, other than matters as prescribed in this Enforcement Decree, shall be addressed by the Chairman, after a resolution by the Committee.



Chapter 4 Supplementary Rules

Registration Certificate for Layout-Design

35. The following items shall be stated in a registration certificate for the layout-design to be issued in accordance with Article 21, Paragraph 3 of the Act:

1. the holder of a layout-design right,
2. the registration number and date of registration, and
3. other matters as provided for in the Decree of the Ministry of Commerce, Industry and Energy.

Public Reading of the Register

36.—(1) Where one of the following items has been requested in accordance with Article 21, Paragraph 4 of the Act, the Commissioner of the Korean Industrial Property Office shall respond to such request without delay unless there is a special cause:

1. request to obtain a certified copy or an abstract copy of a layout-design register as prescribed in Article 21 of the Act, or
2. request to publicly read, or to obtain a copy of, a layout-design register as prescribed in Article 21 of the Act, an application and accompanying documents as prescribed in Articles 11 and 17 of the Act (not including the request for a copy of a drawing or photograph for the layout-design).

(2) Public reading as prescribed in Paragraph 1 above shall only be allowed in a designated place in the presence of a government official who is in charge of the register.

[Without Title]

37. Deleted.

[Without Title]

38. Deleted.

Addendum

This Decree shall come into effect on and after January 1, 1999.