

**Law No. 2001-20 of February 6, 2001,
on the Protection of the Layout-designs of Integrated Circuits¹**

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On behalf of the people,

The Chamber of Deputies having adopted it,

The President of the Republic enacts the law whose content is as follows:

**Chapter I
General Provisions**

1. The aim of this Law shall be to establish the rules relating to the protection of the layout-designs of integrated circuits.

2. “Integrated circuit” means a product which, in its final or an intermediate form, is intended to perform an electronic function and in which the elements, at least one of which is an active component, and all or part of the interconnections are an integral part of the body or surface of a piece of material.

“Layout-design of integrated circuits” or “topography” means the three-dimensional arrangement —whatever its expression— of the elements, at least one of which is an active component, and all or part of the interconnections of an integrated circuit or such a three-dimensional arrangement which is prepared for an integrated circuit intended to be manufactured;

“Owner” means the natural or legal person who shall be regarded as a beneficiary of the protection referred to in Article 5 of this Law.

3. Layout-designs of integrated circuits may be protected under this Law insofar as they are the result of the intellectual effort of their creators and are not common, at the time of their creation, in the integrated circuits’ sector.

Where the layout-design consists of elements common in the integrated circuits’ sector, it shall be protected only insofar as the combination of these elements, taken as a whole, meets the requirements of the first sub-paragraph of this article.

4. Layout-designs of integrated circuits shall enjoy legal protection only if they are deposited in accordance with this Law.

5. The right to protection for the layout-designs of integrated circuits, provided for by this Law, shall belong to the creators of the designs or to their beneficiaries.

Where several persons have jointly created a layout-design of integrated circuits, the right to protection shall belong to them jointly.

Where the layout-design of integrated circuits has been created during the performance of an enterprise or labor contract, the right to protection shall belong, unless contractual provisions to the contrary exist, to the client or to the employer.

6. This Law shall apply to the layout-designs whose creators or their beneficiaries are Tunisian or are domiciled in Tunisia, or in fact own serious industrial or commercial establishments in Tunisia, or who, by means of their nationality, domicile or industrial or commercial establishments, are nationals of a State which, through its domestic legislation or under the international agreements to which it is a party, guarantees for Tunisian layout-designs the same rights as those granted to its nationals.

Chapter II

Deposit Procedures

7. The right to deposit a layout-design of integrated circuits shall belong to its creator or to his beneficiaries.

8. Layout-designs of integrated circuits shall be deposited with the body responsible for industrial property in return for the payment of fees, the amounts of which shall be fixed by decree.

Where the depositor is represented by an agent, a written power of attorney shall be attached to the declaration of deposit.

A depositor domiciled overseas shall appoint an agent registered in Tunisia.

The agent's power of attorney shall specify the scope of representation.

This power shall extend to all the acts affecting the layout-design of integrated circuits, including the operations provided for by this Law, apart from in cases of the surrender of protection, which require a special power.

9. All layout-designs of integrated circuits shall be deposited according to procedures which shall be fixed by decree.

The body responsible for industrial property shall verify, at the time of each deposit, whether the deposit has been made according to the procedures provided for in the first subparagraph of this article, without prior examination of the originality, the right of the depositor to protection or the accuracy of the facts stated in the application.

In cases where the deposit does not comply with the provisions of the second subparagraph of this article, notification shall be given with the appropriate reasons to the depositor and a period of three months, starting from the date of the notification, shall be allocated to him to cure any defects in the deposit or to challenge the objections raised by the body responsible for industrial property.

In cases where any defects in the deposit are not cured or observations overcoming the objections are not submitted, the deposit shall be rejected.

Appropriate reasons shall be given for a rejection decision.

Any deposit recognized as lawful and registered shall be published in the official gazette of the body responsible for industrial property within a period not exceeding six months starting from the date of its acceptance.

10. The date of deposit shall be the date on which the depositor submitted a layout-design of integrated circuits in accordance with the provisions of Article 9 of this Law. However, if the body responsible for industrial property considers that a procedural defect has affected the deposit, the depositor may benefit from the same date of deposit, provided that the curing of any defect in the deposit does not entail any amendment in the layout-design of integrated circuits deposited.

11. A layout-design of integrated circuits which is the subject of commercial use, wherever it may be in the world, may not be deposited if such use has continued for more than two years.

12. A deposit may relate to only one layout-design of integrated circuits.

13. The body responsible for industrial property shall keep a register known as the National Register of Layout-designs of Integrated Circuits. This Register shall be kept according to procedures which shall be fixed by decree.

Any layout-design of integrated circuits lawfully deposited shall be entered by the body responsible for industrial property in the Register.

Any act modifying or transferring the rights attached to a deposited layout-design of integrated circuits may be effective against third parties only if it has been entered in the Register.

Entry in the Register shall be subject to the payment of fees, the amounts of which shall be fixed by decree.

Any entry made in the National Register of Layout-designs of Integrated Circuits shall be reported in the official gazette of the body responsible for industrial property.

Any person may obtain from the body responsible for industrial property a copy of the entries made in the National Register of Layout-designs of Integrated Circuits in return for the payment of a fee, the amount of which shall be fixed by decree.

14. Any person may consult the file for the deposit of layout-designs of integrated circuits. No copy of the deposit file may, however, be issued without the authorization of the owner and without the payment of a fee, the amount of which shall be fixed by decree.

15. The deposit of a layout-design of integrated circuits may be withdrawn, at any time prior to registration, by means of a written declaration. The withdrawal shall be subject to the payment of a fee, the amount of which shall be fixed by decree.

The declaration of withdrawal may refer to one deposit only. It shall be produced by the requestor or by his agent. A special power of attorney for withdrawal shall be attached to the agent's declaration.

If the deposit of a layout-design of integrated circuits has been made on behalf of several persons, it may be withdrawn only if so required by all the persons concerned.

If rights, in particular a pledge or a license, have been entered in the National Register of Layout-designs of Integrated Circuits, the declaration of withdrawal shall be admissible only if it is accompanied by the written consent of the owners of these rights.

16. The deposit of a layout-design of integrated circuits shall be declared void by means of a court decision in the following cases:

- if the layout-design of the integrated circuits, as defined in Article 3 of this Law, may not be protected;
- if the depositor does not have the status of creator, as defined in Article 5 of this Law;
- if the deposit has not been made within the period specified in Article 11 of this Law.

The action to declare void shall be brought before the courts by any interested party.

If the reasons for declaring void affect the layout-design of the integrated circuits only partially, the declaration shall be made only for the part concerned.

Where a deposit has been declared void by means of a court decision having acquired the force of *res judicata*, a copy of this decision shall be sent to the body responsible for industrial property by the party concerned.

The decision to declare void shall have absolute effect.

Chapter III Rights Attached to the Deposit

17. Without the authorization of the owner, third parties shall be forbidden to:

- reproduce all or part of the layout-design of integrated circuits, apart from where the reproduction is of a part which does not satisfy the requirements of originality;
- use, for commercial purposes, a reproduction of the layout-design of integrated circuits or import for this purpose such a reproduction or any product incorporating it;

This prohibition shall not extend to:

- reproduction for evaluation, analysis, research or teaching purposes;
- creation, from such analysis, research or evaluation, of a distinct layout-design of integrated circuits able to claim the protection provided for by this Law.

The prohibition provided for in the first subparagraph of this article may not be effective against any person who acquires an integrated circuit in good faith. That person shall, however, be liable to pay fair compensation if he intends to continue the commercial use of the circuit. Where an amicable settlement is not reached, the amount of this compensation shall be fixed by the competent court.

18. The protection granted to a layout-design of integrated circuits under this Law shall take effect on the day of the deposit or of the date of the first commercial use of the integrated

circuits, where this use predates the deposit, subject to the requirements of Article 11 of this Law.

Such protection shall cease at the end of the tenth calendar year following the date on which it took effect.

19. If a deposit has been made in violation of the rights of the creator or his beneficiaries, the injured party may claim any profit generated in court. The action to establish title shall take place within a period of three years starting from the date of publication of the deposit.

Chapter IV Transfer and Loss of Rights

20. The owner of a layout-design of integrated circuits may, either fully or partially, surrender his design by means of a signed request sent to the body responsible for industrial property.

Where the surrender is made by means of an agent, a special power of surrender duly signed by the owner of a layout-design of integrated circuits shall be attached to the request.

If the layout-design of integrated circuits belongs to several persons, the request for surrender shall, subject to being admissible, be accompanied by the written consent of all the owners.

If actual rights relating to a layout-design of integrated circuits, a pledge or license, have been entered in the National Register of Layout-designs of Integrated Circuits, the request for surrender of this design shall, subject to being admissible, be accompanied by the written consent of the owners of these rights.

Following its acceptance by the body responsible for industrial property, the surrender shall be entered in the National Register of Layout-designs of Integrated Circuits and shall take effect starting from the date of this entry.

The surrender shall be subject to the payment of a fee, the amount of which shall be fixed by decree.

21. The rights attached to the deposit of a layout-design of integrated circuits may be transferred either in full or in part.

The rights may be the subject, either in full or in part, of a license for use, be it exclusive or non-exclusive.

The rights granted by the deposit of a layout-design of integrated circuits may be relied upon against a licensee who infringes the limits of the license imposed in accordance with the second subparagraph of this article.

Subject to the case provided for in Article 19 of this Law, the transfer of the rights provided for in the first subparagraph of this article shall not infringe the rights acquired by third parties prior to the date of transfer.

22. Acts comprising a transfer or a license, as referred to in Article 21 of this Law, shall be recorded in writing, subject to being declared void.

All license contracts for the use of a layout-design of integrated circuits shall be entered in the Register. The body responsible for industrial property shall keep the content of such contracts secret.

This procedure shall be carried out at the time the layout-design of integrated circuits is deposited, even in the case where the license contract has been concluded before a request for protection of the layout-design of integrated circuits has been deposited.

23. The Minister for Industry may give notice to the owners of layout-designs of integrated circuits to undertake use of the layout-designs so as to satisfy the needs of the national economy, public health or protection of the environment.

If the notice has not produced any effect within one year and, if the absence of use or the inadequate quality or quantity of the use undertaken, causes serious harm to public interest, the layout-designs of integrated circuits which are the subject of the notice may be subject to the *ex officio* licensing rules by order of the Minister for Industry.

The Minister for Industry may extend the period of one year, provided for in the second subparagraph of this article, where the owner of the layout-designs of the integrated circuits is able to produce a legitimate excuse.

The State may obtain *ex officio* at any time, for the needs of national defense or security, a license to use a layout-design of integrated circuits, irrespective of whether the use is made by the State or on its behalf.

This *ex officio* license shall be granted, at the request of the Minister concerned, by order of the Minister for Industry.

24. Starting from the day of the publication of the order which subjects the layout-designs of integrated circuits to the rules governing the *ex officio* license, any person may request the Minister for Industry to grant a license for their use.

This license is granted by order of said Minister according to specific requirements, in particular regarding its duration and field of application, but excluding the amounts to be paid to the author of the creation. In cases where an amicable settlement is not reached, this amount shall be fixed by the courts.

The order referred to in the second subparagraph of this article shall be published in the Official Gazette of the Republic of Tunisia and notified to the parties concerned. The license shall take effect from the date of the notification.

25. The *ex officio* license shall be non-exclusive. The rights attached to this license may be transferred only with the business, enterprise or part of the enterprise to which they are attached.

26. Amendments to the license conditions requested, either by the owner of the layout-design of integrated circuits or by the beneficiary of the license, shall be decided and published according to the procedure prescribed for the grant of said license. If the amendments relate to the amounts to be paid to the owner of the layout-design of integrated circuits, they shall be decided according to the procedure prescribed for the original fixing of the amount.

The owner of the layout-design of integrated circuits may request the withdrawal of the *ex officio* license in cases where the beneficiary of the license does not satisfy the obligations imposed on him.

The procedure applicable to the withdrawal of the *ex officio* license shall be that followed at the time of its issue.

Chapter V Appeals

27. The appeals made against the decisions of the legal representative of the body responsible for industrial property regarding the deposit or refusal of the layout-designs of integrated circuits shall be lodged with the competent court.

28. The period for the appeal lodged with the competent courts against the decisions cited in Article 27 of this Law shall be one month from the date of notification of the disputed decision.

29. The appeal shall be lodged by means of a written request submitted to the court registry.

Subject to non-admissibility declared *ex officio*, the request shall contain the following information:

- if the requestor is a natural person: his first name, surname, profession, domicile, nationality, date and place of birth;
- if the requestor is a legal person: his form, name, registered office, and the first name and surname of his legal representative;
- the date and subject of the decision challenged;
- the first name, surname and address of the owner of the layout-designs of the integrated circuits.

A copy of the decision challenged shall be attached to the request.

If the request does not contain a statement of the means relied on, the requestor shall, subject to non-admissibility, submit this statement to the court registry at least seven days before the first court hearing.

30. A copy of the request shall be notified to the body responsible for industrial property through a bailiff-lawyer by the requestor.

The body responsible for industrial property shall forward to the court registry the file of the decision challenged, within one month, starting from the date of notification of the copy of the request through a bailiff-lawyer.

31. Where the appeal is lodged by a person other than the owner of the deposit of a layout-design of integrated circuits, the owner shall be joined to the proceedings by the requestor.

32. The requestor may be represented in court by an agent.

33. The court judgement shall be notified to the other parties by the most diligent party.

Chapter VI

Penalties

34. Any infringement of the rights of the owner of the deposit of a layout-design of integrated circuits, as defined in Article 17 of this Law, shall constitute the crime of infringement and shall render the person responsible liable under civil and criminal law.

Any person who has knowingly infringed these rights shall be punished with a fine of one to fifty thousand dinars.

In addition, the court may order, at the guilty party's expense, the judgement to be displayed in such places as it determines and to be inserted, either in full or in part, in the newspapers of its choosing.

A fine of five hundred to two thousand dinars shall be imposed on any person who has included in his commercial documentation, advertisements or goods a reference leading to the belief that a layout-design of integrated circuits has been deposited under this Law, whereas the deposit has not taken place or it has been declared void, or the period for which it has been made has ended.

Criminal action may be taken by the Public Prosecutor's Office only on a complaint by the injured party.

35. In the case of a repeat offence, a prison sentence of one to six months may be handed down, in addition to the fine which shall be doubled.

36. In the case of a conviction, the court may order the destruction or removal from commercial circulation of the incriminating goods as well as the confiscation of the instruments used to manufacture them.

37. Events prior to the deposit shall not give rise to any action under this Law.

Events subsequent to the deposit, but prior to its publication, may not give rise to civil or criminal action under Article 34 of this Law, unless the injured party establishes the bad faith of the party presumed to be guilty.

No action, be it criminal under Article 34 of this Law, or civil may be taken before the deposit has been published.

Where events are subsequent to the publication of the deposit, those responsible may plead their good faith, provided they can furnish appropriate proof.

38. The injured party may, even before the publication of the deposit, make, through a bailiff-lawyer, a detailed description, with or without seizure, of the incriminating items or instruments, pursuant to an order given by the President of the competent court, upon submission of a request and production of the deposit certificate.

The President of the court may impose on the requestor a security which the requestor is obliged to pay before undertaking the operation referred to in the previous subparagraph of this article.

A copy of the order and of the act recording the deposit of the security shall be given to the holders of the items described, subject to the proceedings being declared void and damages being paid against the bailiff-lawyer.

Where the requestor fails to lodge either a civil or criminal appeal within a period of 15 days, the description or the seizure shall be declared void *ipso jure*, without prejudice to the damages.

The period of 15 days shall start from the day on which the seizure or description has taken place.

Chapter VII Border Measures

39. The creator of a protected layout-design of integrated circuits or his beneficiaries may, if he has serious reasons to suspect an operation involving the import of goods comprising copied layout-designs of integrated circuits, submit to the customs authorities a written request, demanding the suspension of customs clearance for the import of the goods.

The requestor shall be obliged to inform the customs authorities in the case where his right no longer appears to have valid registration or appears to have expired.

40. The application provided for in Article 39 of this Law shall contain:

— the first name and surname or business name of the requestor, his domicile or registered office;

— proof establishing that the requestor is the owner of a right in the goods which are the subject of the dispute;

— a description of the goods sufficiently accurate as to allow the customs authorities to recognize them.

In addition, the requestor shall supply all the other useful information available to him to allow the customs authorities to take a fully informed decision, without, however, the submission of this information constituting a requirement for the admissibility of the request.

This information shall relate, *inter alia*, to the:

— place where the goods are located or the planned destination,

— identification of the parcel or of the packages,

— date of arrival or planned deposit of the goods,

— means of transport used,

— identification of the importer, exporter or holder of the goods.

The request shall also contain the undertaking of the requestor to assume responsibility in relation to the importer, if it is formally proven that the goods withheld by the customs authorities do not constitute an infringement of the protected layout-design of integrated circuits.

41. The customs authorities, to which a request drawn up in accordance with Article 39 of this Law is submitted, shall examine the request and immediately inform the requestor in writing of the decision taken. Appropriate reasons shall be given for the decision.

The customs authorities may demand from the requestor, where his request has been accepted or where intervention measures have been taken pursuant to Article 42 of this Law,

the payment of a guarantee designed to cover the amount of the expenses incurred as a result of the goods being kept under customs supervision.

42. Where the customs authorities observe, in the appropriate case following consultations with the requestor, that goods correspond to those indicated in the request, they shall withhold the goods.

The customs authorities shall immediately inform the requestor and the importer that the goods have been withheld, and shall grant them the opportunity to examine the goods which have been withheld and to take samples therefrom as required for the analyses and tests for establishing whether an infringement has actually occurred, in accordance with the provisions of the Customs Code and without harming the principle of confidentiality of information.

For the purposes of an order made by the president of the court and of initiating court proceedings, the customs authorities shall inform the requestor of the first names, surnames and addresses of the exporter, importer and recipient of the goods, if they are known to the authorities, and also of the goods which are the subject of the request.

43. Provided that all the customs procedures have been completed, the measure to withhold the goods shall be lifted *ipso jure*, failing which the requestor shall, within a period of ten working days starting from the notification of the withholding of the goods, provide the customs authorities with proof that he has lodged a civil or criminal appeal and that precautionary measures have been decided by the competent court and that he has paid a sufficiently large security to cover his liability toward the persons concerned.

The amount of the security shall be fixed by the court.

In appropriate cases, this period may be extended by a maximum of ten working days.

The owner, importer or recipient of the goods shall be entitled to obtain the lifting of the withholding of the goods in question, in return for the payment of a security, the amount of which shall be fixed by the court and which shall be sufficient to protect the requestor's interests, provided that all the customs procedures have been completed.

The owner, importer, recipient and requestor shall be informed immediately by the customs authorities of the lifting of the withholding of the goods.

44. If, pursuant to a ruling having acquired the force of *res judicata*, it transpires that the goods are counterfeit, the court shall decide on the action to be taken in relation to the goods:

- Either the goods shall be destroyed under supervision by the customs authorities;
- Or the goods shall be taken out of commercial circulation, provided that the rights of the owner of the layout-design of integrated circuits are not infringed.

45. The customs authorities may, at their own initiative, suspend the customs clearance of the goods presumed to contain a counterfeit layout-design of integrated circuits.

In this case:

- The customs authorities shall immediately inform the owner of a layout-design of integrated circuits, or his beneficiaries, who shall submit a request in accordance with Article 39 of this Law, within a period of three days from the date of notification given to him by the customs authorities and the provisions of this chapter shall apply *ipso jure*.

— The measure to withhold the goods, taken in accordance with the provisions of this article, shall be lifted *ipso jure*, if the owner of a layout-design of integrated circuits, or his beneficiaries, does not submit the request in accordance with Article 39 of this Law, within three days of the notification given to him by the customs authorities.

46. The liability of the customs authorities may not be incurred, if they do not succeed in recognizing the goods presumed to be counterfeit.

47. The provisions of this chapter shall not apply to goods of a non-commercial nature contained in travelers' personal luggage, within the limits of the amounts set by the laws and regulations in force.

48. The procedures for applying the provisions of this chapter shall be established by order of the Minister of Finance.

This Law shall be published in the Official Gazette of the Republic of Tunisia and enforced as State law.

Tunis, February 6, 2001.
Zin El Abidin Bin Ali

Note: Translation by the International Bureau of WIPO.

¹ Preparatory work: Discussion and adoption by the Chamber of Deputies at its session of January 16, 2001.