

*\* This English translation is for informative purposes only and not an authentic translation of the original Turkish texts.*

## **LAW ON THE PROTECTION OF LAYOUT-DESIGNS OF INTEGRATED CIRCUITS**

**Law Number** : 5147  
**Accepted Date** : 22/4/2004  
**Official Gazette Published** : **Date: 30/4/2004**      **Issue** : 25448  
**Published Code** : **Arrangement : 5**      **Volume** : 43

### **FIRST PART**

#### **Purpose, Scope and Definitions**

##### **Purpose and scope**

**Article 1-** The purpose of this Law is to protect the integrated circuit topographies in accordance with the provisions of this Law, to create a competitive environment in this field and thus to ensure the development of the industry.

This Law covers the principles, rules and conditions regarding the protection of proprietary integrated circuit topographies. The protection provided to the integrated circuit topographies within the scope of this Law does not prevent the right holders from benefiting from the protections brought by other laws.

##### **Definitions**

**Article 2-** In this Law;

a) Integrated circuit: A product in intermediate or final form, which is designed to perform an electronic function or other similar functions, has at least one active element and some or all of its interconnections are combined in and/or on a piece of material,

b) Integrated circuit topography: It is a series of images prepared for production and fixed in any format, showing the three-dimensional array of layers that make up the integrated circuit, and the view of all or a part of the surface of each image at any stage of the production of the integrated circuit,

c) (**Amended: 22/12/2016-6769/188 art. )** Institution: Turkish Patent and Trademark Office,

d) Registry: Integrated Circuit Topographies Registry,

e) License: The right to use,

f) License agreement: The agreement in which the integrated circuit topography right holder gives the right to use the integrated circuit topography to third parties,

g) Bulletin: Bulletin in which integrated circuit topographies recorded in the registry are published,

h) Re-examination and Evaluation Board: The Board that examines and evaluates the objections to be made by the applicant or third parties against the decisions taken by the

Institution regarding the registration of industrial property rights,<sup>1</sup>

i) Court: Specialized courts,  
means.

## **SECOND PART**

### **Persons Benefiting from Protection, Subject, Conditions and Duration of Protection**

#### **Persons who will benefit from protection**

**Article 3-** From the protection provided by this Law; Citizens of the Republic of Türkiye, natural and legal persons residing within the borders of the Republic of Türkiye and engaged in industrial or commercial activities, and persons who have the right to apply within the provisions of international agreements.

Although it is out of the scope of the provision of the first paragraph, natural and legal persons who are nationals of the states that legally or de facto grant integrated circuit topography protection to the citizens of the Republic of Türkiye can also benefit from this right in Türkiye, taking into account the principle of reciprocity.

#### **Subject of protection**

**Article 4-** Integrated circuit topographies with original quality are protected by issuing a registration certificate. Protection; It does not apply to information fixed in the topography other than the content, process, system, technique, or topography itself, on which the integrated circuit topography is based.

Benefiting from the protection within the scope of this Law does not depend on whether the integrated circuit, which has a protected integrated circuit topography, is used in any product.

#### **Originality**

**Article 5-** An integrated circuit topography is considered original if it has emerged as a result of the designer's own intellectual effort and is not known among integrated circuit manufacturers and integrated circuit topography designers at the time of design.

An integrated circuit topography consisting of an arrangement of known elements and interconnections, taken as a whole, benefits from protection if it fulfills the requirement of originality in terms of its assembled form.

#### **Beginning and duration of protection**

**Article 6-** The beginning of the protection provided to the integrated circuit topography according to this Law; Provided that the registration application is made within two years from the first commercial release of the integrated circuit topography by the right holder or by a third party with his/her permission; the said launch date or, in the absence of commercial release, the date on which the registration application is filed.

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<sup>1</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in this paragraph has been changed to "Institution".

The protection period is ten years from the start date specified in the first paragraph, and this period ends at the end of the tenth calendar year.

Unless the integrated circuit topography is used commercially, except for cases requiring confidentiality, and if no application has been made to the Authority for registration within fifteen years from the date of design, the right to protect the integrated circuit topography cannot be claimed.<sup>2</sup>

### **THIRD PART**

#### **Entitlement, Rights Holder's Powers and Limitation of the Right to Protection entitlement**

**Article 7-** The right to protect the integrated circuit topography belongs to its designer or its legal successors.

In cases where the integrated circuit topography is designed by more than one person, the right of protection is jointly used by these people, unless there is a contrary agreement between them.

#### **Entitlement in the service relationship**

**Article 8-** Unless there is a contrary provision in the contract between them; The right to protect the integrated circuit topography designed by civil servants, servants and workers while performing their work belongs to employers.

Even though the contract does not require, the officer, servant or worker; If an integrated circuit topography is made by using the information or tools in the workplace, the right to protect the integrated circuit topography belongs to the employers. In this case, a price to be determined is paid to the officer, servant or worker, taking into account the importance of the integrated circuit topography. If the parties cannot agree on the price, the said price is determined by the court.

#### **Entitlement of university members**

**Article 9-** The right on the integrated circuit topographies designed by the academic staff working at the faculties and high schools of the universities belongs to the lecturers.

If the educational institution has made expenditures by providing certain tools and equipment for the researches that resulted in the integrated circuit topography, the instructors are obliged to notify the educational institution in writing that the integrated circuit topography has been evaluated, and to provide information on the evaluation method of the integrated circuit topography and the amount of earnings obtained, upon request. The educational institution may request that an appropriate amount be given from the earnings obtained within

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<sup>2</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in this paragraph has been changed to "Institution".

three months from the date of the written notification made to it. However, the amount to be requested cannot exceed the expenditures made by the educational institution.

### **Ownership of rights in contracts other than service contracts**

**Article 10-** The right holder of the integrated circuit topographies designed within the framework of employment contracts other than the service contract is the person who gives the job unless there is a contrary agreement.

### **Authorizations of the integrated circuit topography right holder**

**Article 11-** The integrated circuit topography right holder has exclusive powers to prevent the following acts without permission:

a) Incorporating all or part of the protected integrated circuit topography into an integrated circuit or in any other way, excluding duplication of parts that do not meet the conditions of originality.

b) Import, sale or commercial distribution of a protected integrated circuit topography, an integrated circuit containing the protected integrated circuit topography, or a product containing an illegally reproduced integrated circuit topography.

### **Situations where the right to protection is limited**

**Article 12-** The acts listed below are outside the scope of the integrated circuit topography protection right:

a) Reproduction of the protected integrated circuit topography for personal non-commercial purposes or for evaluation, analysis, research or educational purposes only.

b) Subjecting the original integrated circuit topography, which is the result of the analysis and evaluation specified in subparagraph (a), to the acts in Article 11.

c) Import, sale or commercial distribution of the integrated circuit topography or integrated circuit after the protected integrated circuit topography or the integrated circuit containing this integrated circuit topography is put on the market by the right owner or with his/her approval, in the country or abroad.

d) When acquiring the said integrated circuit or any integrated circuit topography used on this integrated circuit, it is an integrated circuit or an integrated circuit reproduced in an unlawful manner, of the acts specified in clause (b) of Article 11, As soon as he realizes that the integrated circuit or integrated circuit topography has been reproduced in an unlawful manner, although he does not know or is not able to know that there is an integrated circuit topography, only on the goods he has held or ordered until then, in paragraph (b) of Article 11 to perform the specified acts and to pay a reasonable price to the right holder regarding this integrated circuit or integrated circuit topographies.

e) Performing any of the acts in clause (b) of Article 11 regarding an original and exactly the same integrated circuit topography designed independently by a third party.

## CHAPTER FOUR

### Application Conditions and Registration

#### Registrar<sup>3</sup>

**Article 13-** The authorized institution for the registration of integrated circuit topographies is the Authority. Registration applications are made in writing and separately for each integrated circuit topography.

#### Application conditions

**Article 14-** The integrated circuit topography registration application petition contains the following information and documents:

- a) Name and address of the applicant.
- b) Summary information about integrated circuit topography.
- c) Document showing that the application fee has been paid.
- d) The date of first commercial use of the integrated circuit topography or a statement that such use has not occurred.
- e) Statement of how the right ownership is obtained in accordance with Articles 7, 8, 9 and 10.
- f) Power of attorney if the application is made through a proxy.
- g) **(Repealed: 28/1/2021-7263/16 art. )**
- h) Copies or drawings of the integrated circuit topography, including information describing the electronic functions performed by the integrated circuit.

However, if the submitted copies or drawings are sufficient to recognize the integrated circuit topography, copies or drawings of the parts related to the production of the integrated circuit may not be given.

The procedures and principles regarding the application are regulated by a regulation.

#### Formal examination and finalization of the application date<sup>4</sup>

**Article 15-** In cases where the application is not made in accordance with the conditions and regulation in Article 14; The Institution notifies the applicant and gives two months from the date of notification to correct the deficiencies.

However;

- a) Application petition,
- b) Information on the identity of the applicant,
- c) Copies or drawings of the integrated circuit topography,

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<sup>3</sup>With the 188th article of the Law No. 6769 dated 22/12/2016, the "Institute" in the first paragraph of this article. The phrase is "Institution." was changed to.

<sup>4</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the first paragraph of this article was changed to "Institution", and the phrase "Institute" in the second and third paragraphs was changed to "Institution".

If it is given during the application, the application becomes final as of the date it is submitted to the Institute.

If there is a deficiency in the conditions listed in the second paragraph on the date the application is submitted to the Institute, the application becomes final as of the date the deficiencies are corrected.

If the deficiencies are not corrected within the given time, the application is deemed not made.

### **Registration and publishing<sup>5</sup>**

**Article 16-** Upon the finalization of the application, the Institution; It records the application in the Registry without examining the accuracy of the information specified in the application petition, whether the applicant has the right to apply, and whether the integrated circuit topography is original.

The trade is public. A copy of the registry can be obtained, provided that the fee is paid. Fees are determined by the communiqué to be published by the Institution.

The integrated circuit topography registered in the registry is published in the Bulletin.

The information to be included in the registry is determined by the regulation.

## **CHAPTER FIVE**

### **Transfer, Transfer, Pledge, Foreclosure and License**

#### **Transfer, transfer, pledge and lien**

**Article 17-** Rights arising from the application or registration of the integrated circuit topography are transferable and inherited. It is possible to make death-related dispositions on these rights.

Right arising from application and registration, legal or contractual may be subject to foreclosure and foreclosure. In this case, upon the request of one of the parties, the relevant rights are recorded in the Registry and published in the Bulletin. The relevant provisions of the Turkish Civil Code numbered 4721 and the Execution and Bankruptcy Law numbered 2004 are applied in terms of the right of pledge and attachment.

Transactions to be made on the right arising from the application and registration are subject to written form .

The transfer or inheritance of the integrated circuit topography right arising from the application and registration is recorded in the Registry and published in the Bulletin upon payment of the fee stipulated in the notification. The date of issue is the date of judgment against third parties.

#### **Licence<sup>6</sup>**

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<sup>5</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrases "Institute" in the first and second paragraphs of this article have been changed to "Institution".

<sup>6</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the first paragraph of this article has been changed to "Institution".

**Article 18-** A license agreement can be made regarding the right arising from the application and registration. Upon the request of one of the parties, the license agreement is registered and announced in the Registry. The Institution files and stores confidential information regarding the submitted contract. Unless the license agreement is recorded in the Registry, it cannot be claimed against third parties.

The license can be issued as an exclusive license or a non -exclusive license. Unless otherwise agreed in the contract, the license is not exclusive . The licensor may use the integrated circuit topography itself, or may also issue other licenses for the same integrated circuit topography to third parties.

In the case of an exclusive license, the licensor cannot grant a license to another person and cannot use the integrated circuit topography himself, unless he expressly reserves his right.

Unless otherwise agreed in the contract, licensees cannot transfer their contractual rights to third parties and cannot grant sublicenses.

Unless otherwise agreed in the contract, the person holding the exclusive license may file the lawsuits that the integrated circuit topography right holder may bring pursuant to this Law, on his own behalf, in case the rights of the integrated circuit topography right holder arising from the registration are infringed by a third party . Non- exclusive licensees do not have the right to sue.

A licensee who does not have the right to sue due to infringement of the integrated circuit topography right may request the integrated circuit topography right holder to file a lawsuit with a notification to be made through a notary public. If the integrated circuit topography right holder does not accept this request or does not file a lawsuit within three months from the date of receipt of the notification, the licensee may file a lawsuit on his own behalf by adding the notification he has made. If the licensee files a lawsuit, the licensee is obliged to notify the integrated circuit topography right owner that it has filed a lawsuit. The licensee may request from the court an interim injunction in the face of a serious risk of damage and before the expiry of the three-month period.

## CHAPTER SIX

### **Invalidity Cases, Termination of Right and Persons Authorized to Take Action**

#### **Invalidity request and invalidity cases<sup>7</sup>**

**Article 19-** The court decides to invalidate the integrated circuit topography right in the following cases, upon the request of consumer associations, organizations subject to Law No. 5590 dated 8.3.1950 and Law No. 507 dated 17.7.1964, and people with other interests:

a) If it is proved that the integrated circuit topography does not meet the protection conditions specified in the 4th and 5th articles.

b) If it has been proven that the right ownership of the integrated circuit topography belongs to another person or persons.

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<sup>7</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the fourth paragraph of this article was changed to "Institution" and the phrase "Institute" as "Institution".

if it is proved that the said application was not made within the period specified in the first paragraph of Article 6 .

If the invalidity reasons are related to a part of the integrated circuit topography, only the relevant part is invalidated.

Invalidity can also be asserted as a counterclaim.

The Court notifies the Institution of the situation both when a lawsuit is filed and when the decision becomes final. The Institution records the announcement and decision in the Registry as soon as possible and publishes it in the Bulletin. <sup>(7)</sup>

### **The effect of nullity**

**Article 20-** In case the invalidity of the integrated circuit topography is decided, the decision will have retroactive consequences.

Without prejudice to the claims for compensation for the damage caused by the malicious act of the integrated circuit topography right holder , the retroactive effect of the invalidation does not affect the following situations:

a) Legally finalized and implemented decisions taken due to infringement of an integrated circuit topography before the integrated circuit topography is deemed null and void.

b) Contracts made and implemented before the invalidity of the integrated circuit topography is decided. However, it is possible to partially or completely refund the price paid in accordance with the contract, taking into account the circumstances and conditions, justified reasons and the principle of equity.

The final decision regarding the invalidity of the integrated circuit topography will prevail against everyone.

### **Reasons for termination of the right<sup>8</sup>**

**Article 21-** Right to protect integrated circuit topography; It ends with the realization of one of the cases where the protection period expires or the owner of the integrated circuit topography right renounces this right.

In case the integrated circuit topography protection right expires, the subject of the right is considered public property from the moment the reason for termination has occurred. This matter is announced by the Institution in the Bulletin. <sup>(8)</sup>

### **Waiving the right to protection<sup>9</sup>**

**Article 22-** The owner of the integrated circuit topography protection right may waive his right arising from the application or registration.

The waiver request must be notified to the Institution in writing. The waiver becomes

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<sup>8</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the second paragraph of this article has been changed to "Institution".

<sup>9</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the second paragraph of this article has been changed to "Institution".



effective as of the date of registration in the Registry. <sup>(9)</sup>

The right holder cannot waive his right, unless the owners of the rights and licenses registered in the registry give permission.

If the right to protect the integrated circuit topography is claimed by a third party, the right to protect the integrated circuit topography cannot be waived without the consent of the third party.

#### **Persons authorized to transact before the institution<sup>10</sup>**

**Article 23-** Real and legal persons applying for integrated circuit topography and patent attorneys registered in the Registry can take action before the Office.

Legal entities are represented by the person or persons appointed by their authorized bodies.

Persons residing abroad can only be represented by patent attorneys registered in the Registry.

In case a proxy is appointed, all transactions are made through the proxy. The notification made to the attorney shall be deemed to have been made to the principal.

### **CHAPTER SEVEN**

#### **Acts Considered as Rape, Lawsuits, Courts, Injunctions and Timeout**

##### **Acts deemed infringement**

**Article 24-** Except for the acts listed in Article 12, in the event that the acts listed in subparagraphs (a) and (b) of Article 11 are committed, the injured party has the right to file a lawsuit in order to prevent these acts from being committed .

the integrated circuit topography application is published in the Bulletin according to article 16 , the applicant has the right to file a lawsuit for infringement on the integrated circuit topography. If the aggressor has been informed of the application or its scope, it is irrelevant whether the application has been published in the Bulletin. If the court decides that the rapist is malicious , the existence of the rape is accepted before publication.

##### **Right to request transfer**

**Article 25-** In the event that the basic element that is the subject of the application is taken from the integrated circuit topography of a third party without permission, this third party may request the court to transfer the application to him.

If the application has been registered, the third party may request the court to transfer the registration to his own name and to correct the Registry accordingly, within three years from the publication of the registration.

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<sup>10</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrases "Institute" in the title and first paragraph of this article have been changed to "Institution".

### **Competent court in the rights of the right holder and civil cases<sup>11</sup>**

**Article 26-** The owner of the integrated circuit topography whose right arising from the application or registration has been violated may make the following requests from the court:

- a) Determining the evidence to prove the act of rape.
- b) Determining whether the act is rape.
- c) Elimination of rape and compensation for material and moral damage.
- d) Seizing the products produced or imported by infringing the rights arising from the integrated circuit topography and the vehicles used directly in their production.
- e) Notification of the court decision against the infringer, at the expense of the infringer, to the relevant parties and public announcement.
- f) Stopping the infringement and taking measures to prevent its continuation, changing the shape of the products and vehicles confiscated according to subparagraph (d) or destroying the rights arising from the integrated circuit topography if it is inevitable to prevent the infringement.

g) If possible, granting him the right of ownership on the products and vehicles confiscated pursuant to subparagraph (d). In this case, the value of the products in question is deducted from the compensation amount. If this value exceeds the accepted compensation, the exceeding amount is paid to the other party by the integrated circuit topography right holder.

Regarding the measures, the court decides in accordance with the relevant provisions of the Code of Civil Procedure No. 1086.

In civil lawsuits to be filed by the right owner against third parties, the competent court is the court where the plaintiff is domiciled or where the crime is committed or the effects of the act of infringement are seen.

If the plaintiff does not have a domicile in Türkiye, the competent court is the court where the registered attorney's workplace is located, and if the attorney's registration has been deleted, the court is located at the headquarters of the Institution.<sup>(11th)</sup>

In the lawsuits to be filed by third parties against the integrated circuit topography application or the owner of the integrated circuit topography right, the competent court is the court where the defendant is domiciled. In case the integrated circuit topography application or the integrated circuit topography right holder does not reside in Türkiye, the provision of the fourth paragraph of this article is applied.

Where more than one court is competent, the competent court is the court where the first case was filed.

### **Requesting documents proving rape**

**Article 27-** The beneficiary of the integrated circuit topography may request the indemnity payer to provide the documents related to the use in order to determine the amount of damage suffered as a result of the use of the integrated circuit topography without his

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<sup>11</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the fourth paragraph of this article has been changed to "Institution".

consent.

### **lost earnings**

**Article 28-** The damage suffered by the integrated circuit topography right holder includes not only the value of the actual loss, but also the gain lost due to the infringement of the rights arising from the registration.

The deprived gain is calculated according to one of the following evaluation methods, depending on the choice of the injured beneficiary:

a) If the infringer did not have competition, according to the possible income that the integrated circuit topography right holder could obtain from using the integrated circuit topography.

b) According to the gain of the rapist by using the integrated circuit topography.

c) According to the license fee to be paid if the intruder has used the integrated circuit topography in accordance with the law with a license agreement.

Factors such as the economic importance of the integrated circuit topography, the validity period at the time of infringement of the rights arising from the topography, and the number and type of licenses for the integrated circuit topography at the time of infringement are taken into account in calculating the lost earnings.

If the person who has the power to dispose of the integrated circuit topography protection right has chosen one of the evaluation methods specified in this article in the calculation of the lost income, if the court considers that the integrated circuit topography has an economically important contribution to the production of the product, it decides to add a reasonable share in the calculation of the income. .

### **Time out**

**Article 29-** The provisions of the Code of Obligations No. 818 regarding the statute of limitations shall apply to the claims regarding private law arising from the infringement of the rights arising from the integrated circuit topography.

### **Objection and litigation against institution decisions<sup>12</sup>**

**Article 30-** The applicant may object to the Institution's decisions in writing within two months from the notification of the decision. The objection is examined and decided by the Institution Re-examination and Evaluation Board. <sup>(12)</sup>

Against the said decisions of the Re-examination and Evaluation Board, a lawsuit may be filed in the authorized and authorized court within sixty days from the date of notification of the decision.

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<sup>12</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the words "Institute" in the title and first paragraph of this article have been changed as "Institution" and the phrase "Institute" as "Institution".

### **competent court<sup>13</sup>**

**Article 31-** The courts in charge of the cases stipulated in this Law are the specialized courts. These courts serve as a single judge. The Supreme Council of Judges and Prosecutors determines which of the civil and criminal courts of first instance will be appointed as specialized courts and the jurisdiction of these courts, upon the proposal of the Ministry of Justice.

In lawsuits to be filed against all decisions taken by the Institution pursuant to the provisions of this Law, and in lawsuits filed by third parties against the Institution, the competent and authorized court is the Ankara specialized courts, among the courts specified in the first paragraph of this article. <sup>(13)</sup>

### **Announcement of judgment**

**Article 32-** The party who is justified as a result of the lawsuit has the right to demand that the final decision be announced in the daily newspaper or similar means, in whole or in summary, at the expense of the other party, if there is a justified reason or interest. The right to announce is forfeited if it is not requested within three months after the finalization of the decision. The form and scope of the announcement is determined by the court.

### **Detection of the absence of rape**

**Article 33-** Anyone with an interest can file a lawsuit against the right owner and demand that his actions do not constitute an infringement of the rights arising from the integrated circuit topography.

Prior to the filing of the lawsuit mentioned in the first paragraph, the beneficiaries may request through a notary public to submit their opinions on whether the industrial activity they have undertaken or will undertake in Türkiye, or the actual attempts they have made for this purpose, constitute an infringement on the rights arising from the integrated circuit topography. In case the right holder does not respond within one month after the notification of this request or if the answer given is not accepted by the beneficiary, the beneficiary may file a lawsuit containing the request specified in the first paragraph.

This lawsuit cannot be brought by a person against whom a lawsuit has been filed due to infringement of the rights arising from the integrated circuit topography.

The case is notified to all beneficiaries who have rights on the integrated circuit topography and are registered in the Registry.

The lawsuit specified in this article can also be brought together with the invalidity lawsuit.

### **The request for injunctive measure and the nature of the measure**

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<sup>13</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the words "Institute" in the second paragraph of this article have been changed to "Institution" and "Institute" as "Institution".

**Article 34-** Persons who have brought or will initiate the lawsuits stipulated in this Law may request an interim injunction from the competent and authorized court in order to ensure the effectiveness of the lawsuit.

An interim injunction can be requested before the lawsuit is filed or together with the lawsuit or until the decision becomes final. The request for injunctive relief is examined separately from the case.

The precautionary measure should fully ensure the effectiveness of the judgment to be given and should cover the following matters:

a) Suspension of actions constituting infringement of the plaintiff's rights arising from the integrated circuit topography.

b) Seizing and preserving the goods produced or imported by infringing on the rights arising from the integrated circuit topography, within the borders of Türkiye or wherever they are located, including areas such as customs and free ports or regions.

c) Giving a guarantee for the compensation of a possible damage in the future.

#### **Provisions to be applied**

**Article 35-** Regarding the determination cases and precautionary measures, the provisions of the Code of Civil Procedure No. 1086 shall apply in matters not regulated in this Law.

#### **confiscation at customs**

**Article 36-** Upon the request of the right owner or his representative during import, the counterfeit goods, which require a penalty because the production of the same constitutes an infringement of the rights of the right owner, shall be processed by the customs administrations within the framework of Article 57 of the Customs Law No. 4458.

The confiscation decision in the customs administrations will be annulled if no action is brought before the specialized court on the merits within ten working days from the notification of the decision or if a precautionary decision is not taken from the court.

## **CHAPTER EIGHT**

### **General Terms and Termination of Compulsory License**

#### **Conditions for granting the compulsory license<sup>1415</sup>**

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<sup>14</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the second paragraph of this article, the phrase "Institution", the phrase "Institution" in the third paragraph, the phrase "Institution" in the third paragraph, the phrase "Institution" in the fifth paragraph. The phrase "Institute" in the first paragraph was changed to "Institution", and the phrase "Institute" in the sixth paragraph was changed to "Institution".

<sup>15</sup>With the 151st article of the Decree Law dated 2/7/2018 and numbered 700, the phrase "By the President of the Republic" in the first paragraph of this article, the phrase "Council of Ministers upon the opinion of the Institution and the proposal of the Ministry to which the Agency is affiliated" The phrase "President" was changed to "President", "Council of Ministers" was changed to "President",

**Article 37-** Use of an integrated circuit topography by a public institution or a third party without the consent of the right holder;

a) The need to use a protected integrated circuit topography for non-commercial purposes for reasons of public interest, national security, general health or the development of other vital sectors of the national economy,

b) In case it is determined by the judicial or administrative authorities that the use of a protected integrated circuit topography, carried out by the right holder or the license right holder, is of a nature to eliminate competition, there is a need to eliminate this negative situation,

In case of existence of one of the conditions, a decision can be made by the President.  
(15)

A public institution or a third party requesting a contractual license from the integrated circuit topography right holder may apply to the Authority for the right to use, if the request is not accepted within reasonable commercial conditions and within a reasonable time. The application must include information and documents proving that a contractual license is requested. With the decision of the President, the right to use is granted by issuing a compulsory license within the principles specified in the first paragraph. The fulfillment of the conditions stipulated in this paragraph is not required in order to issue a Presidential decision in cases of emergency and in cases of urgency .<sup>(1).(2)</sup>

In case the use of the integrated circuit topography is important in terms of national defense, development of vital sectors of the national economy or general health, the proposal to grant the compulsory license is prepared jointly by the ministry to which the Institution is affiliated and the relevant ministries. Since it is important in terms of national defense, the decision to grant a compulsory license may be limited to the use of the integrated circuit topography by one or more enterprises.<sup>(14)</sup>

The use of the integrated circuit topography recognized within the scope of this article should be limited to the purpose for which it is authorized in terms of scope and duration and should only meet the demand of the domestic market.

This right is not exclusive . In case this usage right is granted, the owner of the integrated circuit topography right is paid the usage fee based on the actual value. The usage fee is determined by the Authority within the framework of the principles to be regulated in the regulation, taking into account the economic value of the authority given by the President and the need to compensate for the practices that eliminate competition where it is implemented. The usage fee is paid by the owner of the usage right.<sup>(14)(15)</sup>

The right of use granted to a third party by the President's decision can be transferred. However, in order for this transfer to be made, the whole of the enterprise or only the part benefiting from this use must be transferred. Upon the request of one of the parties, the transfer is recorded in the Registry by the Institution. The transfer not recorded in the registry cannot be claimed against third parties.<sup>(14)(15)</sup>

The owner of the right of use cannot sublicense. The transaction made for this purpose

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*"Council of Ministers" in the fifth paragraph was changed to "President", and "Council of Ministers" in the sixth paragraph was changed to "President".*

is deemed invalid.

In cases specified in subparagraph (b) of the first paragraph, the provisions of the fourth paragraph do not apply if the right to use is granted.

#### **Compulsory license expiration<sup>1617</sup>**

**Article 38-** In cases where the situation that led to the decision to grant the compulsory license has disappeared and it is not possible to re-realize it, the President may decide to cancel the compulsory license upon the request of the integrated circuit topography right holder.

## **CHAPTER NINE**

### **Penalties and the Right to Complaint**

#### **Penalties to be applied in cases of violation of rights**

**Article 39-** (Repealed: 22/12/2016-6769/191 art. )

#### **Those who have the right to complain**

**Article 40-** (Repealed: 23/1/2008-5728/578 art.)

#### **regulation<sup>18</sup>**

**Article 41-** The regulations stipulated in this Law shall be prepared and put into effect by the Authority within six months following the publication of the Law.

#### **Force**

**Article 42-** This Law enters into force on the date of its publication.

#### **Executive**

**Article 43-** The provisions of this Law are executed by the Council of Ministers.

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<sup>16</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrases of "Institute" in the first paragraph of this article have been changed to "Institution".

<sup>17</sup>With the article 151 of the Decree Law dated 2/7/2018 and numbered 700, the phrase "By the Council of Ministers upon the approval of the Agency and the proposal of the Ministry to which the Agency is affiliated" in the first paragraph of this article was changed to "By the President".

<sup>18</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the first paragraph of this article has been changed to "Institution".

**LEGISLATION BRINGING ADDITIONALS AND AMENDMENTS TO THE LAW  
NUMBER 5147 OR  
ANNOUNCEMENT OF THE CONSTITUTIONAL COURT  
LIST SHOWING THE EFFECTIVE DATE**

<b>Number of the Amending Law / Decree of the Constitutional Court or Revoking Constitutional Court Decision</b>	<b>Amended or Canceled Articles of Law No. 5147</b>	<b>Effective Date</b>
5728	39, 40	8/2/2008
6769	2, 6, 13, 15, 16, 18, 19, 21, 22, 23, 26, 30, 31, 37, 38, 39, 41	10/1/2017
Decree/700	37.38	on 24/6/2018 together made Turkish Grand National Assembly And Presidency elections as a result President's swearing on duty started on the date (9/7/2018)
7263	14	3/2/2021