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Layout-Designs of Integrated Circuits Protection Act

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Amended by the following acts

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10.03.2004	RT I 2004, 20, 141	01.05.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
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24.01.2007	RT I 2007, 13, 69	15.03.2007
10.12.2008	RT I 2008, 59, 330	01.01.2009
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22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
07.12.2011	RT I, 28.12.2011, 1	01.01.2012
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers are replaced starting with the version in force from 1 July 2014 pursuant to subsection 107 ³ (4) of the Government of the Republic Act.
20.02.2019	RT I, 19.03.2019, 4	29.03.2019, in part 01.04.2019
20.02.2019	RT I, 19.03.2019, 5	01.04.2019

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

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

§ 2. Legal acts providing legal protection of layout-designs of integrated circuits

(1) The legal protection of layout-designs of integrated circuits is provided for in this Act, other Acts and regulations issued by the Government of the Republic and the Ministers on the basis and for the implementation of such Acts.

(2) The legal protection of layout-designs of integrated circuits provided for in this Act is independent of the protection provided for in the Copyright Act.

(3) If a legal act regulating the legal protection of layout-designs of integrated circuits is contrary to an international agreement ratified by the Riigikogu, the provisions of the international agreement apply.

§ 3. Equality of rights and obligations of natural and legal persons of the Republic of Estonia and of foreign states

The rights and obligations prescribed in this Act and other legislation regulating the legal protection of layout-designs of integrated circuits apply equally to natural and legal persons of the Republic of Estonia and of foreign states (hereinafter persons), considering the restrictions provided for in this Act regarding persons of foreign states.

Chapter 2 BASES FOR LEGAL PROTECTION OF LAYOUT- DESIGNS OF INTEGRATED CIRCUITS

§ 4. Definition of integrated circuit

For the purposes of this Act, an “integrated circuit” means a product, in its final form or intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in or on a piece of material and which is intended to perform an electronic function.

§ 5. Definition of layout-design of integrated circuit

For the purposes of this Act, the “layout-design of an integrated circuit” means the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such reproduction of three-dimensional disposition prepared for an integrated circuit intended for manufacture.

§ 6. Definition of commercial exploitation

(1) For the purposes of this Act, “commercial exploitation” means the transfer or grant of use, for a charge, of a layout-design of an integrated circuit or the integrated circuit composed on the basis thereof and the offer for transfer or grant of use for a charge, importation or distribution in another manner of a layout-design of an integrated circuit or the integrated circuit composed on the basis thereof, including distribution as part of a product.

(2) Confidential use upon which the layout-design of an integrated circuit is not available to third persons is not deemed to be commercial exploitation.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 7. Definition of reproduction

For the purposes of this Act, “reproduction” means the copying of the layout-design of an integrated circuit in whichever manner, including copying for the purpose of manufacturing the integrated circuit.

§ 8. Ensuring legal protection of layout-designs of integrated circuits

(1) Layout-designs of integrated circuits which are original and have not been commercially exploited in any part of the world for more than two years prior to the filing of the layout-design of the integrated circuit for registration in the register of layout-designs of integrated circuits (hereinafter also the register) are granted legal protection.

(2) Layout-designs of integrated circuits are original if they are the result of their creators’ creative activities and are not commonplace among experts creating and manufacturing layout-designs of integrated circuits at the time of their creation.

(3) A complete layout-design of an integrated circuit consisting of commonplace layout-designs of integrated circuits is granted legal protection if it, taken as a whole, complies with the requirements provided for in subsection (1) of this section.

(4) A part of a layout-design of an integrated circuit is granted legal protection if such part performs a clearly determined electronic function and complies with the requirements provided for in subsection (1) of this section.

(5) Legal protection does not extend to the technology of manufacturing integrated circuits or layout-designs of integrated circuits or to information recorded therein.

(6) Legal protection is granted by registration of the layout-design of an integrated circuit in the register pursuant to the procedure provided for in this Act.

(7) The identification documents of the layout-design of an integrated circuit which is entered in the register shall be the basis for determining the scope of legal protection of the layout-design of the integrated circuit. The layout-design of an integrated circuit represented in the identification documents is deemed to have acquired legal protection.

(8) Legal protection is not granted to the layout-design of an integrated circuit which, within fifteen years as of the fixation of the moment of creation, has not been:

- 1) filed for registration in the register;
- 2) commercially exploited in any part of the world by the person who has filed an application for registration of the layout-design of the integrated circuit in the register or with the consent of such person.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 9. Term of legal protection of layout-designs of integrated circuits

(1) The legal protection of the layout-design of an integrated circuit is granted for ten years and terminates ten calendar years after the last calendar day of the initial year of the legal protection of the layout-design of the integrated circuit.

(2) The date of the first commercial exploitation in any part of the world of the layout-design of an integrated circuit, if an application for registration of the layout-design of the integrated circuit in the register is filed within two years from such date, is deemed to be the date of commencement of the legal protection of the layout-design of the integrated circuit.

(3) If the layout-design of an integrated circuit has not been commercially used in any part of the world prior to its filing for registration in the register, the filing date of the application is deemed to be the commencement of legal protection.

Chapter 3 AUTHOR OF LAYOUT-DESIGN OF INTEGRATED CIRCUIT AND OWNER OF LAYOUT- DESIGN OF INTEGRATED CIRCUIT

§ 10. Author of layout-design of integrated circuit

(1) The author of the layout-design of an integrated circuit is the natural person who created the layout-design of the integrated circuit through his or her creative activities.

(2) If the layout-design of an integrated circuit is created by several natural persons through joint creative activities, such persons are joint authors.

(3) In the case of joint authorship, all rights are exercised by the authors jointly, unless they agree otherwise in writing.

(4) Authorship is inalienable and unspecified in term.

§ 11. Rights of author of layout-design of integrated circuit

(1) The author of the layout-design of an integrated circuit has the following moral rights:

- 1) the right to request the disclosure of the author's name as the author;
- 2) the right to prohibit the disclosure of the author's name as the author;
- 3) the right to revoke at any time the prohibition on disclosure of the author's name.

(2) The moral rights of the author of the layout-design of an integrated circuit are inseparable from the author's person and are non-transferable during the lifetime of the author.

(3) The economic right of the author of the layout-design of an integrated circuit is the right to a fair portion of the profit received from the reproduction and commercial exploitation of the layout-design of the integrated circuit. The economic rights of the author of the layout-design of an integrated circuit are transferable. [RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 12. Right to apply for registration of layout-design of integrated circuit

(1) The right to apply for registration of the layout-design of an integrated circuit and to become the owner of the layout-design of the integrated circuit is vested in the author or person who has acquired the right to apply for registration of the layout-design of the integrated circuit from the author or by way of transfer of such right.

(2) The right to apply for registration and ownership of the layout-design of an integrated circuit created in the performance of duties of employment or contractual obligations is vested in the employer or customer, unless otherwise provided for in the duties of employment or a contract.

(3) Several persons may apply for registration of the layout-design of an integrated circuit jointly.

(4) Persons specified in subsection (1) or (2) of this section may only apply for registration of such layout-designs of integrated circuits which comply with the provisions of subsections 8 (1)–(4) of this Act.

§ 13. Exercise of right to apply for registration of layout-design of integrated circuit

(1) The right to apply for registration of the layout-design of an integrated circuit may be exercised by a person who complies with the requirements provided for in § 12 of this Act and who is the citizen of the Republic of Estonia or a state party to the Agreement Establishing the World Trade Organisation (hereinafter Member State of the WTO) or whose residence or seat is in the Republic of Estonia or a Member State of the WTO or who was the first to commercially exploit the layout-design of the integrated circuit in the Republic of Estonia or a Member State of the WTO, or the legal successor of such person.

(2) A person who complies with the requirements provided for in § 12 of this Act but who is not a citizen of the Republic of Estonia or a Member State of the WTO or whose residence or seat is not in the Republic of Estonia or a Member State of the WTO or who was not the first to commercially exploit the layout-design of the integrated circuit in the Republic of Estonia or a Member State of the WTO may exercise the right to apply for registration of the layout-design of an integrated circuit only on the basis of multilateral international agreements.

§ 14. Owner of layout-design of integrated circuit

The owner of the layout-design of an integrated circuit is the person who is entered in the register as the owner of the layout-design of the integrated circuit. The owner of the layout-design of an integrated circuit has the exclusive right to the registered layout-design of the integrated circuit. [RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 15. Rights of owner of layout-design of integrated circuit

(1) The owner of the layout-design of an integrated circuit has the exclusive right to reproduce and commercially exploit the layout-design of the integrated circuit.

(2) The owner of a layout-design of an integrated circuit has the right to:

- 1) prohibit other persons from reproducing or commercially exploiting the layout-design of the integrated circuit without the owner's consent;
- 2) demand persons who infringe the rights provided for in subsection (1) of this section to terminate the infringement of such rights, eliminate the consequences of the infringement and compensate for the damage caused by the infringement;
- 3) demand persons who have acquired in good faith an integrated circuit containing a registered layout-design of an integrated circuit that has been distributed without the consent of the owner of the layout-design of the integrated circuit to pay compensation for further commercial exploitation of the integrated circuit after notifying such person of the owner's rights. The extent of further commercial exploitation of the integrated circuit shall be the basis for determining the amount of compensation;
- 4) use the capital letter "T" as the symbol for a registered layout-design of an integrated circuit in marking an integrated circuit which contains the registered layout-design of the integrated circuit and in publications describing the layout-design of the integrated circuit.

(3) The rights of the owner of the layout-design of an integrated circuit may only be restricted in the cases and pursuant to the procedure prescribed by law.

§ 16. Acts which do not constitute infringement of rights of owner of layout-design of integrated circuit

The following acts do not constitute an infringement of the rights of the owner of the layout-design of an integrated circuit:

- 1) non-commercial use of the layout-design of an integrated circuit;
- 2) reproduction of the layout-design of an integrated circuit for the purposes of analysis, study or teaching;

3) commercial exploitation of the layout-design of an integrated circuit obtained as a result of the activity specified in clause 2) of this section, if such layout-design of the integrated circuit complies with the requirements provided for in subsections 8 (1)–(4) of this Act;

4) independent creation of an identical layout-design of an integrated circuit by a third person.

§ 17. Exhaustion of rights

The owner of the layout-design of an integrated circuit has no right to prohibit further commercial exploitation of an integrated circuit which contains a registered layout-design of an integrated circuit when the integrated circuit has been put on the market in the territory of the Republic of Estonia or a State party to the Agreement of the European Economic Area by the owner of the layout-design of the integrated circuit or with the owner's consent.

Chapter 4

APPLICATION FOR REGISTRATION OF LAYOUT-DESIGN OF INTEGRATED CIRCUIT AND FILING THEREOF

§ 18. Application for registration of layout-design of integrated circuit

An application for registration of the layout-design of an integrated circuit (hereinafter registration application) may contain only one layout-design of the integrated circuit.

§ 19. Registration application documents

(1) A registration application shall consist of the following documents:

- 1) a request for registration of the layout-design of an integrated circuit;
- 2) identification documents of the layout-design of the integrated circuit;
- 3) a document certifying payment of the state fee;
- 4) an authorisation document if the application is filed via a patent attorney or if the applicants have a joint representative.

(2) Other documents deemed necessary by the applicant for registration of a layout-design of an integrated circuit (hereinafter applicant) may be added to a registration application.

(3) If documents added to a registration application pursuant to subsection (2) of this section contain a trade secret, the applicant may prohibit the disclosure of the trade secret.

§ 20. Request for registration of layout-design of integrated circuit

A request for registration of the layout-design of an integrated circuit shall set out:

- 1) a request for registration of the layout-design of an integrated circuit;
- 2) the name of the layout-design of an integrated circuit;
- 3) a request for the date of commencement of legal protection of the layout-design of the integrated circuit to be determined according to the date of its first commercial exploitation;
- 4) definition of information not subject to disclosure pursuant to subsection 19 (3) of this Act;
- 5) the given name, surname and the address of the residence or seat of the enterprise of the applicant if the applicant is a natural person, or the name and address of the applicant if the applicant is a legal person;
- 6) information on the right to apply for registration of the layout-design of the integrated circuit pursuant to the provisions of subsections 12 (1) and (2) of this Act;
- 7) the given name, surname and address of the author;
- 8) prohibition on disclosure of the given name, surname and address of the author if the author has prohibited disclosure thereof;
- 9) the given name and surname of the patent attorney if the application is filed via a patent attorney;
- 10) the given name and surname of the representative if the representative is a natural person, or the name of the representative if the representative is a legal person, if the applicants have a joint representative;
- 11) the correspondence address of the applicant;
- 12) the signature of the applicant, patent attorney or joint representative.

§ 21. Identification documents of layout-design of integrated circuit

(1) The identification documents of the layout-design of an integrated circuit shall give a clear and complete depiction of the layout-design of the integrated circuit.

(2) The identification documents of the layout-design of an integrated circuit may include drawings or photos of the layout-design of the integrated circuit, mask or a part thereof with which the integrated circuit is composed or can be composed and the different layers of the integrated circuit.

(3) If the layout-design of an integrated circuit filed for registration is only a part of the layout-design depicted on the documents specified in subsection (2) of this section, the part filed for registration shall be clearly distinguishable.

§ 22. Filing of registration application

- (1) Registration applications shall be filed with the Patent Office.
- (2) Registration applications may be filed in person or by post. Registration applications filed by telefax or other electronic means shall not be accepted.
- (3) A state fee for the filing of a registration application shall be paid within two months after the filing date of the registration application. The term for payment of the state fee cannot be extended or restored.
- (4) An authorisation document shall be submitted on the date of receipt of the registration application or within two months after the date of receipt of the registration application.
- (5) A request for determining the date of commencement of legal protection of the layout-design of an integrated circuit on the basis of the date of its first commercial exploitation shall be filed on the date of receipt of the registration application.
- (6) The requirements for the format of registration application documents and the procedure for filing registration applications shall be established by the minister responsible for the area.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 23. Representative for performing acts related to legal protection of layout-designs of integrated circuit

- (1) Acts related to legal protection of layout-designs of integrated circuits shall be performed at the Patent Office and at the Industrial Property Board of Appeal (hereinafter Board of Appeal) by interested persons or patent attorneys who are expressly authorised by the interested persons and who have been awarded patent attorney qualifications for operating in the area of inventions and layout-designs of integrated circuits pursuant to the Patent Attorneys Act. An interested person or patent attorney may involve, at own expense, an interpreter or adviser without the right of representation in an oral procedure at the Patent Office or at the Board of Appeal.
- (2) A person with no residence or seat in the Republic of Estonia shall authorise a patent attorney as the person's representative for performing acts related to legal protection of layout-designs of integrated circuits at the Patent Office and at the Board of Appeal, except for filing of a registration application and payment of all the state fees specified in this Act.
- (3) If acts related to legal protection of layout-designs of integrated circuits are performed at the Patent Office or at the Board of Appeal by several persons together, they may authorise a patent attorney as their representative or choose a representative from among themselves (hereinafter joint representative) whose residence or seat is in the Republic of Estonia. A joint representative has the right to perform all acts related to the processing of a registration application in the name of the applicants, except transfer of the registration application.
[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 24. Authorisation document

- (1) An authorisation document may be in unattested written form.
- (2) An authorisation document shall set out the following:
 - 1) the given name, surname and the address of the residence or seat of the enterprise of the person represented if the person is a natural person, or the name and address of the person represented if the person is a legal person;
 - 2) in the case of a patent attorney, the given name and surname of the patent attorney;
 - 3) in the case of a joint representative who is a natural person, the given name, surname and the address of the residence or seat of the enterprise of the representative or, in the case of a joint representative who is a legal person, the name of the representative;
 - 4) the scope of authorisation;
 - 5) right to delegate authorisation, if the person represented grants such right to the representative;
 - 6) the term of authorisation, if the authorisation document is granted for a specified term;
 - 7) the signature of the person represented;
 - 8) the place and date of issue of the authorisation document.

Chapter 5

PROCESSING OF REGISTRATION APPLICATION

§ 25. Processor of registration applications

Pursuant to Article 12 (1) of the Paris Convention for the Protection of Industrial Property (RT II 1994, 4/5, 19), registration applications are processed by the Patent Office.

§ 26. Filing date of registration application and acceptance thereof for processing

(1) Upon receipt of a registration application, the Patent Office shall mark every document of the registration application with a notation of receipt. The notation of receipt shall contain:

- 1) the date of receipt of the registration application;
- 2) the sequence number of receipt of the registration application (hereinafter registration application number).

(2) If a registration application is filed by post, the date on which the registration application is received by the Patent Office is deemed to be the date of receipt of the registration application.

(3) The date of receipt of a registration application by the Patent Office is deemed to be the filing date of the registration application if at least the following documents are filed on the date of receipt:

- 1) a request for registration of the layout-design of an integrated circuit;
- 2) identification documents of the layout-design of the integrated circuit;
- 3) information allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Patent Office.

(4) If a registration application meets the requirements provided for in subsection (3) of this section upon its receipt by the Patent Office, the date of receipt of the registration application by the Patent Office shall be deemed to be the filing date of the application.

(5) If any information specified in subsection (3) of this section is missing from an application, the applicant shall be notified thereof and a term of two months shall be set for elimination of deficiencies. The Patent Office is not required to give notice if the filed documents do not contain the name or address of an applicant or the name of the representative of the applicant.

(6) If the name or address of an applicant or the name of the representative of the applicant is missing, the applicant shall, on own initiative, file all documents and information specified in subsection (3) of this section within two months as of the date of receipt of the initially filed documents by the Patent Office.

(7) If an applicant files the missing documents and information relating to the registration application within a term set pursuant to subsection (5) of this section or, if subsection (6) applies, within the term provided for therein, the date on which all the documents and information specified in subsection (3) are submitted to the Patent Office shall be deemed the filing date of the registration application.

(8) The filing date of a registration application shall not be established if the applicant fails to submit the missing documents and information relating to the registration application to the Patent Office within the term prescribed in the cases provided for in subsections (5) and (6) of this section.

(9) A registration application the filing date of which is established pursuant to subsection (4) or (7) of this section shall be accepted for processing. The Patent Office shall notify the applicant of the filing date and number of the registration application.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 27. Refusal to accept registration application for processing

(1) The Patent Office shall refuse to accept a registration application for processing if the filing date of the registration application is not established pursuant to subsection 26 (8) of this Act.

(2) The Patent Office shall make a decision on refusal to accept a registration application for processing and shall notify the applicant thereof in writing. The applicant is entitled to a refund of the paid state fee.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 28. [Repealed RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 29. Verification of requirements for contents and form of registration application documents accepted for processing

(1) The Patent Office shall verify:

- 1) the existence of the registration application documents provided for in § 19 of this Act and their compliance with the requirements for form;
- 2) the compliance of the contents of the registration application documents with the provisions of §§ 18, 20 and 21 of this Act;

(2) The Patent Office does not examine:

- 1) compliance of the layout-design of an integrated circuit with the provisions of subsections 8 (1)–(4) of this Act;
- 2) the right of the applicant to apply for registration of the layout-design of an integrated circuit pursuant to the provisions of subsections 12 (1) and (2) of this Act.

(3) If an applicant files a request, on the basis of subsection 9 (2) of this Act, for determining the date of commencement of legal protection of the layout-design of an integrated circuit based on the date of its first commercial exploitation, the Patent Office shall determine such date.

(4) The Patent Office shall inform the applicant in writing of deficiencies in the contents or form of the registration application documents or of any other circumstances which hinder the processing thereof and shall establish a term of two months for elimination of the deficiencies or provision of explanations.

(5) The Patent Office may, on the basis of a request from the applicant, extend the term for elimination of deficiencies in a registration application or for provision of explanations by up to six months from the beginning of the term specified in subsection (4) of this section. The request together with a document certifying payment of the state fee shall be filed before the end of the term established in subsection (4) of this section.

§ 30. Correction and supplementation of registration application

An applicant may correct and supplement a registration application during processing provided that such corrections and supplements do not alter the layout-design of the integrated circuit which was applied for in the registration application at the filing date of the registration application.

§ 31. Withdrawal of registration application

(1) An applicant may withdraw a registration application during processing by filing a corresponding written request. A registration application is deemed to be withdrawn from the date of receipt of the request by the Patent Office. Registration application documents are not returned.

(2) The Patent Office deems a registration application to be withdrawn if the applicant fails to respond to a demand of the Patent Office to eliminate deficiencies in the registration application or to provide explanations by the end of the term established pursuant to subsections 29 (4) or (5) of this Act.

§ 32. Termination of processing of registration application

(1) If a registration application is withdrawn or deemed to be withdrawn, the processing of the registration application is terminated and the applicant is notified thereof in writing.

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 33. Resumption of processing of registration application

(1) An applicant may request the resumption of the processing of a registration application that has been terminated if the applicant failed to respond to the demand of the Patent Office to eliminate deficiencies in the registration application or to provide explanations by the end of the term established pursuant to subsection 29 (4) or (5) of this Act due to *force majeure* or some other impediment independent of the applicant or the applicant's representative.

(2) A request for the resumption of the processing of a registration application may be filed within one year after the end of the term established pursuant to subsection 29 (4) or (5) of this Act. The request shall include a document certifying the payment of the state fee.

(3) The Patent Office shall resume the processing of a registration application if the applicant proves the existence of *force majeure* or some other impediment independent of the applicant or the applicant's representative and responds to the demand of the Patent Office to eliminate deficiencies in the registration application or to provide explanations within two months after the *force majeure* or other impediment ceases to exist. The applicant shall be notified of the resumption of the processing of the registration application in writing.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 34. Decision on registration of layout-design of integrated circuit

(1) If a registration application is in compliance with the requirements of §§ 18–21 of this Act, the Patent Office shall make a decision on registration of the layout-design of an integrated circuit without verifying the right of

the applicant to file the application, the correctness of the facts presented in the application or the originality of the layout-design of the integrated circuit and shall notify the applicant thereof in writing.

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(3) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 35. Decision on refusal to register layout-design of integrated circuit

(1) If a registration application is not in compliance with the provisions of §§ 18–21 of this Act, the Patent Office shall make a decision on refusal to register the layout-design of an integrated circuit and shall notify the applicant thereof in writing.

(2) The decision on refusal to register the layout-design of an integrated circuit shall indicate:

- 1) the time and place of making the decision;
- 2) a reference to the applicable laws;
- 3) the reason for the decision;
- 4) the decision;
- 5) an explanation regarding the procedure and term for filing an appeal against the decision;
- 6) the name and signature of the official who made the decision.

(3) The decision on refusal to register the layout-design of an integrated circuit enters into force on the day when it is made.

§ 36. [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 37. Appeal against decisions of Patent Office

(1) An applicant may file an appeal against a decision of the Patent Office with the Board of Appeal.
[RT I 2008, 59, 330 – entry into force 01.01.2009]

(2) [Repealed – RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) An applicant may file an appeal against a decision to register the layout-design of an integrated circuit made by the Patent Office, if the Patent Office has not deemed the date of the first commercial exploitation of the layout-design of the integrated circuit to be the date of commencement of legal protection.

Chapter 6 REGISTER OF LAYOUT-DESIGNS OF INTEGRATED CIRCUITS

[RT I 2004, 20, 141 - entry into force 01.05.2004]

§ 38. Register of layout-designs of integrated circuits

(1) The register of layout-designs of integrated circuits (hereinafter register) is maintained on the basis of this Act and the Principles of Legal Regulation of Industrial Property Act and pursuant to the procedure provided for in said Acts.

(2) Notices concerning register entries are published in the official gazette of the Patent Office in the cases provided for in the Acts specified in subsection (1) of this section. The Patent Office may, in the public interest and pursuant to the procedure established in the statutes of the official gazette of the Patent Office, publish notices concerning other register entries and other information in the official gazette of the Patent Office the publication whereof is not prohibited or restricted on the basis of said Acts or international agreements.
[RT I 2004, 20, 141 – entry into force – 01.05.2004]

§ 39. Registration of layout-design of integrated circuit in register

(1) If a registration application is accepted for processing, the filing date and number of the registration application and the receipt by the Patent Office of the documents submitted on the basis of § 19 of this Act and other documents submitted on the applicant's own initiative, and information contained in such documents pursuant to § 25 of the Principles of Legal Regulation of Industrial Property Act, shall be entered in the register.

(2) In the course of processing a registration application, information and notices concerning the procedural acts performed pursuant to this Act, documents received and issued, terms provided for in this Act and terms established by the Patent Office shall be entered in the register.

(3) Upon grant of legal protection for the layout-design of an integrated circuit, an entry of registration data shall be made in the register.

(4) An entry of registration data shall be made pursuant to § 34 of this Act on the basis of a decision to register the layout-design of an integrated circuit or, in the cases provided for in this Act, on the basis of a decision of the Board of Appeal or a court judgment.

(5) The following data are registration data:

- 1) the registration number;
- 2) the date of registration;
- 3) the name of the layout-design of an integrated circuit;
- 4) information regarding the identification of the layout-design of the integrated circuit;
- 5) the given name, surname and address of the author of the layout-design of the integrated circuit;
- 6) the given name, surname and the address and country code of the residence or seat of the enterprise of the owner of the layout-design of the integrated circuit, or in the case of a legal person, the name, registered address and the country code;
- 7) the date from which the registration is valid;
- 8) the date on which the registration expires;
- 9) in the case of a patent attorney, the given name and surname of the patent attorney;
- 10) in the case of a joint representative who is a natural person, the given name and surname of the natural person, in the case of a joint representative who is a legal person, the name of the legal person;
- 11) the number of the registration application;
- 12) the filing date of the registration application;
- 13) the date of the first commercial exploitation of the layout-design of the integrated circuit.

(6) The applicant is entered in the register as the owner of the layout-design of the integrated circuit.

(7) The Patent Office publishes notices of entries of registration data in the official gazette of the Patent Office. The publication date of the notice shall be entered in the register.

(8) A registration shall enter into force on the publication date of the notice of entry of registration data in the official gazette of the Patent Office.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 40. Validity of registration of layout-designs of integrated circuits

Registration of the layout-design of an integrated circuit is valid retroactively as of the filing date of the registration application or the date of the first commercial exploitation if the layout-design of the integrated circuit is, before the filing date of the registration application, commercially exploited for the first time in any part of the world during the period provided for in subsection 8 (1) of this Act; and the registration is valid for ten years from the last day of the year of commencement of the validity of registration.

~~§ 41.–§ 42.~~[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 43. Access to and release of data from register

(1) No information is released from the register concerning an author if the author has prohibited the disclosure of the author's name.

(2) Prior to the publication of a notice of the entry of registration data, access to a registry file is granted to the applicant, persons who have written consent of the applicant, or a person who proves that applicant intends to resort to legal remedies against the person after registration.

(3) After the publication of a notice of entry of registration data, the register is public. Everyone has the right to have access to the registry file and data entered in a record, except in the case of the restriction specified in subsection (1) of this section.

(4) In order to have access to a registry file or to be issued copies or printouts from the register, a written request shall be submitted. A state fee shall be paid for each grant of access to a registry file and for each copy of a document in a registry file or printout from the register. Applicants and owners of layout-designs of integrated circuits have access to the registry files concerning their layout-designs of integrated circuits free of charge.

(5) The procedure for access to the register and release of information from the register shall be established by the minister responsible for the area.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 44.–§ 45.[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 46. Certificate of layout-design of integrated circuit

(1) After the publication of a notice of registration of a layout-design of an integrated circuit in the official gazette of the Patent Office, the Patent Office shall issue a certificate of the layout-design of the integrated circuit to the owner of the layout-design of the integrated circuit.

(2) Only one certificate is issued regardless of the number of the owners of the layout-design of an integrated circuit.

(3) A duplicate of a certificate may be issued on the basis of a request from the owner of the layout-design of an integrated circuit. A state fee shall be paid for the issue of a duplicate of a certificate.

(4) The requirements for the format and the procedure for the issue of certificates of layout-designs of integrated circuits shall be established by the minister responsible for the area.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 47. [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

Chapter 7 TRANSFER AND EXTINGUISHMENT OF RIGHTS

§ 48. Transfer of registration application

(1) An applicant may transfer a registration application which is being processed by the Patent Office to another person.

(2) A registration application which is being processed by the Patent Office transfers to a legal successor.

(3) In order to amend the data regarding the applicant in a registration application, the applicant or the person to whom the registration application transfers shall file a request and a document certifying the payment of the state fee with the Patent Office. If the request is filed by the person to whom the registration application transfers, the request shall be accompanied by a document certifying the transfer or an officially certified copy thereof.

(4) The Patent Office shall amend the data specified in clause 20 5) of this Act in the registration application.

(5) A registration application is deemed to be transferred to another person from the date on which the data are amended.

§ 49. Transfer of rights of owner of layout-design of integrated circuit

(1) The owner of the layout-design of an integrated circuit may transfer the owner's rights to another person.

(2) The rights of the owner of the layout-design of an integrated circuit transfer to a legal successor.

(3) In order to amend the data regarding the owner of the layout-design of an integrated circuit in a registration, the owner of the layout-design of the integrated circuit or the person to whom the rights of the owner of the layout-design of the integrated circuit are transferred shall file a request and a document certifying the payment of the state fee with the Patent Office. If the request is filed by the person to whom the rights of the owner of the layout-design of the integrated circuit are transferred, the request shall be accompanied by a document certifying the transfer or an officially certified copy thereof.

(4) The request specified in subsection (3) of this section shall be filed within one year of the date on which the rights specified in the transaction are transferred or of the date of creation of legal succession. If the rights of the owner of the layout-design of an integrated circuit are transferred pursuant to a decision of the Board of Appeal or a court judgment, the request shall be filed within one month of the date on which the decision of the Board of Appeal or the court judgment enters into force.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(5) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(6) The rights of the owner of the layout-design of an integrated circuit are deemed to be transferred to another person from the date of transfer of the rights pursuant to a transaction or a decision of the Board of Appeal or a court judgment, or from the date of creation of legal succession.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(7) The person to whom the rights of the owner of a layout-design of an integrated circuit are transferred pursuant to the provisions of this section may exercise such rights from the date on which the entry on the amendment of registration data becomes valid. An entry becomes valid on the date on which it is made. An entry shall have legal effect with regard to a third person as of the date on which a notice of the making of the registry entry is published in the official gazette of the Patent Office.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 50. Licence

(1) The owner of the layout-design of an integrated circuit (licensor) may, by way of a licence, grant the use of the rights of the owner of the layout-design of an integrated circuit specified in § 15 of this Act to one or several persons (holder of rights or licensee) in part or in full.

(2) With the consent of a licensor, a licensee may, by way of a sublicense, transfer the rights deriving from a licence to a third person.

(3) The term of a licence shall not be longer than the term of the legal protection of the layout-design of an integrated circuit.

(4) Licences may be registered in the register.

(5) If there is a conflict of rights granted by different licences to several licensees, preference is given to the licensee whose licence is registered.

(6) An unregistered licence has no legal force with respect to third persons.

(7) A written licence agreement shall be entered into upon the issue of a licence.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 51. Validity of licence upon transfer of rights of owner of layout-design of integrated circuit

(1) [Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

(2) [Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

(3) If, in the cases provided for in § 49 of this Act, the rights of the owner of the layout-design of an integrated circuit transfer to another person, also the rights and obligations deriving from a licence are transferred.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 52. Registration of licence in register

(1) In order to register a licence, the licensor or licensee shall file a request, the licence agreement or an officially certified copy thereof, and a document certifying payment of the state fee with the Patent Office.

(2) An application for registration of a licence shall set out:

- 1) the name and residence or seat of the licensor;
- 2) the name and residence or seat of the licensee;
- 3) the object of the licence;
- 4) the list of rights conferred on the licensee;
- 5) the term of the licence;
- 6) other information which the licensor or licensee deems necessary to be entered in the register.

(3) Instead of a licence agreement or an officially certified copy thereof, an officially certified extract of the licence agreement containing the data specified in subsection (2) of this section may be filed with the Patent Office.

(4) The Patent Office shall make an entry in the register concerning registration of a licence.

(5) An entry on registration of a licence is deleted from the register at the end of the term of the licence or by agreement of the licensor and the licensee.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 53. Bases for extinguishment of rights of owner of layout-design of integrated circuit

(1) The rights of the owner of the layout-design of an integrated circuit extinguish upon expiry of the registration pursuant to § 40 of this Act.

(2) The rights of the owner of the layout-design of an integrated circuit extinguish prior to the date provided for in § 40 of this Act:

1) if the owner of the layout-design of an integrated circuit waives the rights of the owner without transferring the owner's rights to another person;

2) [repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

3) [repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

4) on the basis of a decision of the Board of Appeal or a court judgment which has entered into force and which declares the registered layout-design of the integrated circuit to be contrary to the provisions of subsection 8 (1)–(4) of this Act;

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

5) on the basis of a decision of the Board of Appeal or a court judgment which has entered into force and which declares that the owner specified in the registration had no right to apply for registration of the layout-design of the integrated circuit pursuant to subsections 12 (1) and (2) of this Act, and the person who pursuant to the decision of the Board of Appeal or the court judgment is declared the owner of the layout-design of the integrated circuit has failed to file a request for amendment of the registration data regarding the owner of the layout-design of the integrated circuit pursuant to the procedure prescribed in subsections 49 (3) and (4) of this Act.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) The making of an entry in the register on deletion of a registration constitutes the basis for the extinguishment of the rights of the owner of the layout-design of an integrated circuit.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 54. Making of entry on deletion of registration of layout-design of integrated circuit

[RT I 2004, 20, 141 – entry into force 01.05.2004]

(1) The Patent Office shall make the entry on deletion of a registration on the basis of the provisions of subsection 53 (1) of this Act within five working days after the expiry of the registration pursuant to § 40 of this Act.

(2) In order to make an entry on deletion of a registration in the cases specified in clauses 53 (2) 1), 4) and 5) of this Act, the owner of the layout-design of an integrated circuit or an interested person shall file a request with the Patent Office. If a request is filed by an interested person, documents supporting the claim shall be appended to the request.

(3) The Patent Office shall refuse to make an entry on deletion of a registration pursuant to the provisions of clause 53 (2) 1) of this Act if the rights of the owner of the layout-design of an integrated circuit are the object of a registered licence.

(4) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 55. Legal consequences of entry on deletion of registration of layout-design of integrated circuit

(1) Upon the making of an entry on deletion of a registration pursuant to the provisions of subsection 53 (1) of this Act, the rights of the owner of the layout-design of an integrated circuit extinguish on the date of expiry of the registration.

(2) Upon the making of an entry on deletion of a registration pursuant to the provisions of clause 53 (2) 1) of this Act, the rights of the owner of the layout-design of an integrated circuit extinguish on the date following the date on which such entry is made.

(3) After the deletion of a registration from the register, all persons have the right to reproduce and commercially exploit the layout-design of the integrated circuit. Such right is retroactive to the date on which the rights of the owner of the layout-design of the integrated circuit expired.

Chapter 8 CONTESTATION AND PROTECTION OF RIGHTS

§ 56. Contestation of authorship of layout-design of integrated circuit

(1) Authorship disputes are resolved after the registration of the layout-design of the integrated circuit.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) Any natural person who considers that he or she is the author of the layout-design of an integrated circuit pursuant to § 10 of this Act may file a request with the Board of Appeal for recognition of his or her authorship against the owner of the layout-design of the integrated circuit.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) Authorship may be contested by the author or his or her successor.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(4) Where authorship of a person is recognised, the person may contest the owner of the layout-design of an integrated circuit in the same processing pursuant to subsection 57 (1) of this Act.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(5) A participant in a processing concerning the request specified in subsection (2) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing within the term specified in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

§ 57. Contestation of rights of owner of layout-design of integrated circuit

(1) A person who finds that the rights of the owner of the layout-design of an integrated circuit belong him or her pursuant to subsections 12 (1), (2) and (3) of this Act may file a request with the Board of Appeal for recognition of his or her rights against the owner of the layout-design of the integrated circuit.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) The request specified in subsection (1) of this section may be filed within one year after the publication date of the notice of entry of registration data.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2¹) A participant in a processing concerning the request specified in subsection (2) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing for recognition of his or her rights within the term provided for in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) A person who finds that the person who became the owner of the layout-design of an integrated circuit had no right to file a registration application pursuant to subsection 12 (4) of this Act or to become the owner of the layout-design of the integrated circuit and that the registration hinders such person in the person's economic or business activities, may file a request with the Board of Appeal against the owner of the layout-design of an integrated circuit to declare the registration unlawful.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(4) The request specified in subsection (3) of this section may be filed during the validity period of the registration.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(5) A participant in a processing concerning the request specified in subsection (3) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing to declare the registration unlawful or to ascertain the non-existence of the circumstances providing grounds therefor within the term provided for in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(6) The Patent Office shall make an entry in the register on the basis of the decision of the Board of Appeal or court judgment which has entered into force if the person specified in subsection (1) or (3) of this section submits a request including information on the decision or judgment which has entered into force, to the Patent Office.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

§ 58. Contestation of registration of layout-design of integrated circuit

(1) A person who finds that a registered layout-design of an integrated circuit does not conform to the provisions of subsections 8 (1)–(4) of this Act and that the registration hinders such person in the person's economic or business activities, may file a request with the Board of Appeal against the owner of the layout-design of the integrated circuit for revocation of the registration.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) The request specified in subsection (1) of this section may be filed also after the registration has expired.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2¹) A participant in a processing concerning the request specified in subsection (1) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing for revocation of the registration or for ascertaining the non-existence of the circumstances providing grounds therefor within the term provided for in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) The Patent Office shall make an entry in the register on the basis of the decision of the Board of Appeal or court judgment which has entered into force if the person specified in subsection (1) of this section submits a request including information on the decision or judgment which has entered into force, to the Patent Office.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

§ 59. Protection of rights of author of layout-design of integrated circuit

(1) The author of the layout-design of an integrated circuit has a perpetual right to file an action in court upon infringement of the right provided for in subsection 11 (1) of this Act or for the establishment of any other right deriving from his or her authorship.

(2) [Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 60. Legal remedies in case of unlawful use of layout-design of integrated circuit

In the case of unlawful use of the layout-design of an integrated circuit, the owner of the layout-design of the integrated circuit may demand:

- 1) compensation for damage caused by unlawful use of the layout-design of the integrated circuit pursuant to § 1043 of the Law of Obligations Act;
 - 2) termination of the unlawful use of the layout-design of the integrated circuit and refraining from further violation pursuant to § 1055 of the Law of Obligations Act;
 - 3) the transfer of that which has been received as a result of the unlawful use of the layout-design of the integrated circuit pursuant to §§ 1037 and 1039 of the Law of Obligations Act.
- [RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 61. Specifications for resolution of disputes relating to layout-designs of integrated circuits

(1) Appeals and actions related to the legal protection, validity and unlawful use of the layout-design of an integrated circuit, petitions for the securing of an action and petitions for provisional legal protection, as well as other appeals and actions specified in this Act shall be heard by Harju County Court.
[RT I, 19.03.2019, 4 – entry into force 01.04.2019]

(1¹) [Repealed – RT I, 19.03.2019, 4 – entry into force 01.04.2019]

(1²) A person against whom an action has been filed pursuant to § 60 of this Act, is entitled to file a counterclaim with a claim specified in subsection 56 (2), 57 (1) or (3) or 58 (1).
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) A copy of a court decision which has entered into force concerning a dispute relating to the layout-design of an integrated circuit shall be immediately sent to the Patent Office.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 62. Representative in court disputes relating to layout-designs of integrated circuits

[RT I 2005, 39, 308 – entry into force 01.01.2006]

(1) In resolution of a dispute related to the layout-design of an integrated circuit, a patent attorney may act as a representative in a county court and in a circuit court. In Supreme Court, a patent attorney may act as a representative only together with an attorney-at-law.

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

Chapter 8¹ LIABILITY

[Repealed – RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 62¹. Infringement of moral rights of author

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 62². Procedure

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

Chapter 9

FINAL PROVISIONS

§ 63. State fees

(1) A state fee shall be paid for the performance of the acts prescribed in this Act pursuant to the rates provided for in the State Fees Act.

[RT I 2006, 58, 439 – entry into force 01.01.2007]

(2) State fees shall be paid by applicants, owners of layout-designs of integrated circuits or third persons who have an interest in the performance of acts and issue of documents prescribed in this Act. If the state fee relating to registration of the layout-design of an integrated circuit is paid by a third person, the consent of the applicant or the owner of the layout-design of an integrated circuit is required.

(3) The state fee is deemed to be paid upon receipt of a document certifying payment of the state fee by the Patent Office or, in the case of an appeal, upon receipt of such document by the Board of Appeal.

(4) Paid state fees are not refunded, except in the case provided for in subsection 27 (2) of this Act.

§ 63¹. Proceedings concerning appeals, petitions and actions filed before 1 April 2019

(1) Proceedings concerning an action filed pursuant to this Act before 1 April 2019 shall be conducted by a court even in case mandatory pre-trial procedure in the Board of Appeal is prescribed for the settlement of the respective dispute starting from said date.

(2) Proceedings concerning an appeal, petition or action filed with a court pursuant to this Act before 1 April 2019 shall be conducted by a county court other than Harju County Court even in case Harju County Court has exclusive jurisdiction over adjudication of the respective appeal, petition or action starting from said date.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

§ 64.–§ 68.[Omitted from this text]

§ 69. Entry into force of Act

This Act enters into force three months after the date of publication thereof in the *Riigi Teataja*.