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**ACT ON THE LAYOUT-DESIGNS OF SEMICONDUCTOR INTEGRATED  
CIRCUITS**

[Enforcement Date 04. Aug, 2015.] [Act No.13150, 03. Feb, 2015., Partial  
Amendment]

특허청 (산업재산창출전략팀)042-481-8499



**법제처 국가법령정보센터**

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2023.03.06

# ACT ON THE LAYOUT-DESIGNS OF SEMICONDUCTOR INTEGRATED CIRCUITS

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## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to contribute to the sound development of the national economy through the promotion of industries and technologies relating to semiconductors by protecting the rights of persons who create a layout-design for a semiconductor integrated circuit and by encouraging the fair use of such a layout-design.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### Article 2 (Definitions)

Definitions of terms used in this Act shall be as follows:

1. The term "semiconductor integrated circuit" means a semi-finished or finished product that has been manufactured to function as an electronic circuit through a process of integrating circuit elements, including one or more active elements, and wires connecting such elements onto the surface of any semiconductor or insulating material, or into semiconductor material, in an inseparable form;
2. The term "layout-design" means a design of laying out various circuit elements and wires connecting such elements in two or three dimensions for manufacturing a semiconductor integrated circuit;
3. The term "creation" means a person's activities of making a unique layout-design as a result of the person's intellectual efforts. In such cases, activities of making a layout-design are deemed to be creation, if the layout-design as a whole is unique, although it is composed of a combination of elements of an ordinary layout-design;
4. The term "use" means any of the following activities:
  - (a) Reproduction of a layout-design;
  - (b) Manufacturing of a semiconductor integrated circuit based on a layout-design;
  - (c) Transfer, lease, display (limited to cases for the purpose of transfer or lease), or import of a layout-design, a semiconductor integrated circuit manufactured according to a layout-design, or a product manufactured by applying a semiconductor integrated circuit (hereinafter referred to as "semiconductor integrated circuit or similar product");

5. The term "layout-design right" means rights created when the creation of a layout-design is registered with the Commissioner of the Korean Intellectual Property Office pursuant to Article 21 (1).

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 3 (Foreigner's Layout-Designs)** (1) Any layout-design of a foreigner or a foreign corporation is protected by this Act and treaties which the Republic of Korea has acceded to or signed.

(2) If a layout-design of a foreigner or a foreign corporation from a foreign country is otherwise entitled to protection under paragraph (1), but if the foreign country does not provide layout-designs from the Republic of Korea with the protection equivalent to that under this Act, the Commissioner of the Korean Intellectual Property Office may, in return, place limitations on the protection of the layout-design from the foreign county under this Act or treaties which the Republic of Korea has acceded to or signed.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 4 (Layout-Design Administrator for Non-Residents)** (1) No person who has no domicile or

place of business in the Republic of Korea (hereinafter referred to as "non-resident") may take any proceeding for a layout-design nor file a lawsuit against a disposition made by an administrative agency pursuant to this Act or an order under this Act, unless the non-resident is represented by a person who acts on the non-resident's behalf with regard to the layout-design and who has a domicile or a place of business in the Republic of Korea (hereinafter referred to as "layout-design administrator"), except where an application for registration under paragraph (3) is filed or where the non-resident (or the representative of a non-resident corporation) sojourns in the Republic of Korea.

(2) A layout-design administrator shall have the right to act on behalf of a principal non-resident in all proceedings related to the power delegated and for any lawsuit filed against a disposition made by an administrative agency pursuant to this Act or an order issued under this Act.

(3) No non-resident who has registered the creation of a layout-design pursuant to Article 21 (1) or who has completed the registration under Article 23 may raise an objection against a third party, unless the appointment or replacement of a layout-design administrator or the grant or expiration of the power delegated has been registered.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 5 (Creator of Layout-Design in Service)**

With respect to a layout-design created in the course of service by a person employed by the State, a corporation, an organization, or any other employer (hereinafter referred to as "corporation or a similar employer"), the corporation or similar employer shall be deemed the creator of the layout-design, unless

otherwise provided for by an agreement, employment regulations, or the like.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 5-2 (Application Mutatis Mutandis of the Patent Act)**

@Articles 28-2 through 28-5 of the Patent Act shall apply mutatis mutandis to an application or any other procedure for the registration of a layout-design right under Article 21 (1). In such cases, "procedure for a patent" shall be construed as "application or any other procedure for the registration of creation of a layout-design right", the "Korean Intellectual Property Office or Intellectual Property Trial and Appeal Board" as the "Korean Intellectual Property Office", the "Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Trial and Appeal Board" as the "Commissioner of the Korean Intellectual Property Office", a "written application for a patent" as a "written application for registration of creation", and the "Commissioner of the Korean Intellectual Property Office, the President of the Intellectual Property Trial and Appeal Board, a presiding tribunal examiner, a tribunal examiner, or a presiding examiner or an examiner" as the "Commissioner of the Korean Intellectual Property Office".

## **CHAPTER II LAYOUT-DESIGN RIGHTS**

### **Article 6 (Creation of Layout-Design Rights)**

Layout-design rights are created when the creation of a creative layout-design is registered pursuant to Article 21 (1).

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 7 (Duration of Layout-Design Rights)** (1) The duration of a layout-design right shall be ten years from the date of registration of creation thereof.

(2) The duration of a layout-design right under paragraph (1) shall not exceed ten years from the date the layout-design is initially used for making a profit or 15 years from the date it is created.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 8 (Effects of Layout-Design Rights)**

A person who has registered the creation of a layout-design pursuant to Article 21 (1) or a person who has succeeded to the rights from such person (hereinafter referred to as "holder of a layout-design right") shall have the exclusive right to use the layout-design for profit: Provided, That if an exclusive license under Article 11 (1) is granted for the layout-design, the foregoing sentence shall not apply to the extent that the exclusive licensee holds the exclusive license for the layout-design pursuant to Article 11 (2).

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 9 (Limits of Scope of Layout-Design Rights)** (1) The effects of a layout-design right under Article 8 shall not extend to any of the following lay-out designs:

1. A layout-design reproduced directly or vicariously, for education, research, analysis, evaluation, or any other similar activities or for personal use for any nonprofit purpose;
2. A creative layout-design produced as a result of research, analysis, evaluation, or any other similar activities under subparagraph 1;
3. A layout-design produced by any person other than the right-holder of another layout-design, which is creative, albeit identical with the latter layout-design.

(2) The layout-design right under Article 8 has no effect on any person who engages in an activity specified in subparagraph 4 (c) of Article 2 for profit with any semiconductor integrated circuit or similar product legally manufactured and delivered to him/her.

(3) The layout-design right under Article 8 has no effect on any person who has accepted, in good faith and without negligence on his/her part (hereinafter referred to as "bona fide person"), a semiconductor integrated circuit or similar product, manufactured by illegally reproducing a semiconductor integrated circuit or similar product registered by any other person and delivered to him/her, and who engages in an activity specified in subparagraph 4 (c) of Article 2 for profit with the semiconductor integrated circuit or similar product so delivered.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 10 (Transfer and Joint Ownership of Layout-Design Rights)** (1) Layout-design rights are transferable.

(2) Rights to a layout-design created jointly by two or more persons shall be jointly owned by the persons who created it, and each joint holder's share is deemed to be equal, unless there is a specific agreement among the joint creators to the contrary.

(3) If a layout-design right is owned by joint owners, neither joint owner may transfer his/her share nor pledge his/her share, without the other joint holders' consent.

(4) If a layout-design right is owned by joint owners, each joint owner has a right to use the layout-design without the other joint holders' consent, unless there is a specific agreement to the contrary.

(5) If a layout-design right is owned by joint owners, neither joint owner may grant any person an exclusive license under Article 11 (1), or a non-exclusive license under Article 12 (1), of the layout-design right without the other joint owners' consent.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

- Article 11 (Exclusive Licenses)** (1) The holder of a layout-design right may grant another person a right to use the layout-design exclusively (hereinafter referred to as "exclusive license").
- (2) A person who has been granted an exclusive license under paragraph (1) (hereinafter referred to as "exclusive licensee") has an exclusive right to use the layout-design for making a profit within the scope of the license granted.
- (3) An exclusive licensee may transfer his/her exclusive license only when any of the following events occurs:
1. When the exclusive license is transferred along with the business to which the layout-design has been applied;
  2. When the exclusive license is transferred by inheritance or any other ordinary succession;
  3. When the holder of the layout-design rights consents to the transfer.
- (4) No exclusive licensee may pledge an exclusive license without the consent of the holder of the layout-design rights.
- (5) If an exclusive license is jointly owned, neither joint owner may grant any person a non-exclusive license under Article 12 (1) without the other joint holders' consent.
- (6) Article 10 (3) and (4) shall apply mutatis mutandis to an exclusive license. In such cases, the term "layout-design right" therein is construed as "exclusive license".

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

- Article 12 (Non-Exclusive Licenses)** (1) The holder of a layout-design right or an exclusive licensee for a layout-design may grant another person a right to use the layout-design (hereinafter referred to as "non-exclusive license"): Provided, That an exclusive licensee who intends to grant another person a non-exclusive license shall obtain consent from the holder of the layout-design right.
- (2) A person who has been granted a non-exclusive license under paragraph (1) (hereinafter referred to as "non-exclusive licensee") has a right to use the layout-design for making a profit within the scope of the license granted.
- (3) A non-exclusive licensee may transfer his/her non-exclusive license only when any of the following events occurs:
1. When the license is transferred along with the business to which the layout-design has been applied;
  2. When the license is transferred by inheritance or any other ordinary succession;
  3. When the holder of the layout-design right (referring to the holder of the layout-design right and the exclusive licensee, if the license is a non-exclusive license granted by the exclusive licensee; hereafter the same shall apply in this Article) consents to the transfer.

(4) No non-exclusive licensee may pledge his/her non-exclusive license without the consent of the holder of the layout-design right.

(5) Article 10 (3) and (4) hereof shall apply mutatis mutandis to a non-exclusive license. In such cases, the term "layout-design right" therein is construed as "non-exclusive license".

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

- Article 13 (Adjudication on Non-Exclusive License Granted)** (1) Any person who desires to use a layout-design, the creation of which has been registered pursuant to Article 21 (1), may demand the holder of the layout-design right or the exclusive licensee for the layout-design to negotiate with the person for the grant of a non-exclusive license if the layout-design falls under any of the following subparagraphs:
1. If a layout-design has not been used in the Republic of Korea for two consecutive years or longer without any natural disaster or force majeure or any justifiable ground specified by Presidential Decree;
  2. If the layout-design has not been used in the Republic of Korea for a considerable scale of business for two consecutive years or longer or the layout-design has failed, without any justifiable ground, to meet domestic and overseas demand, at an appropriate level and under proper conditions.
- (2) A person who demanded negotiations under paragraph (1) may file an application for adjudication on the grant of a non-exclusive license with the Commissioner of the Korean Intellectual Property Office, if it is impossible to have negotiations under paragraph (1) within a reasonable period of time or if the person fails to reach an agreement on the grant of a non-exclusive license after negotiations, although the person has offered reasonable terms and conditions that may be prevalent in ordinary commercial transactions.
- (3) Notwithstanding paragraphs (1) and (2), any person who desires to use a layout-design, the creation of which has been registered pursuant to Article 21 (1), in a national emergency or any other crucial situation may file an application for adjudication on the grant of a non-exclusive license directly with the Commissioner of the Korean Intellectual Property Office.
- (4) The Commissioner of the Korean Intellectual Property Office may, if it is found that an application filed for adjudication under paragraph (2) or (3) falls under any of the following subparagraphs, make an adjudication to grant a non-exclusive license (hereinafter referred to as "adjudication") to the applicant, subject to the deliberation of the Committee for Deliberation and Mediation on Layout-Designs under Article 25:
1. When the use of the layout-design is required to meet domestic demand, not for commercial purpose, but for the public interest;
  2. When there is a ground specified by Presidential Decree to secure free competition and prevent any holder of a layout-design right or any exclusive licensee for a layout-design from abusing his/her right.

(5) Adjudications shall be made in writing, clearly stating the following matters:

1. The scope of the non-exclusive license;
2. The consideration for the license and the method and deadline for the payment of the consideration.

(6) Matters necessary for the procedure for filing an application for adjudication under paragraphs (2) and (3) and other relevant matters shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

#### **Article 14 (Lapse of Adjudication)**

An adjudication becomes ineffective and invalid if the person for whom the adjudication was made fails to pay or deposit the consideration (or the first installment, if the person is allowed to pay the consideration on a periodic basis or in installments) on or before the deadline for payment under Article 13 (5) 2.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 15 (Cancellation of Adjudication)** (1) The Commissioner of the Korean Intellectual Property Office may, in his/her discretion or upon receiving an application from an interested party, cancel an adjudication if:

1. The person for whom the adjudication was made has not used the layout-design;
2. The ground requiring the adjudication, as specified in any subparagraph of Article 13 (4), has been eliminated, and such ground is not likely to recur.

(2) Once an adjudication is cancelled pursuant to paragraph (1), the relevant non-exclusive license shall terminate on the date of its cancellation.

(3) Matters necessary for the procedure for the cancellation of adjudication under paragraph (1) and other relevant matters shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 16 (Pledge)** (1) If a layout-design right or an exclusive or non-exclusive license for a layout-design is put in pledge, no pledgee of a layout-design right may use the layout-design, unless there is a special agreement to the contrary.

(2) A pledge over a layout-design right or an exclusive or non-exclusive license for a layout-design may also be exercised against money or any other goods that the holder of the layout-design right or the exclusive or non-exclusive licensee for the layout-design (including a person to whom a non-exclusive license has been granted pursuant to Article 13 (4); hereinafter the same shall apply) is entitled to receive as compensation under this Act or in consideration for the use of the layout-design. In such cases, the compensation, money, or goods shall be placed under attachment before the compensation or money is paid or the goods are delivered.



[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 17 (Lapse of Layout-Design Rights)**

A layout-design right shall become ineffective if:

1. A corporation or an organization that has a layout-design right is dissolved, and the layout-design right escheats to the State pursuant to the Civil Act or any other Act;
2. An individual with a layout-design right dies without any inheritor and the layout-design right escheats to the State pursuant to the Civil Act or any other Act.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 18 (Restriction on Surrender of Layout-Design Rights)** (1) No holder of a layout-design right may surrender his/her layout-design right without the consent from exclusive and non-exclusive licensees (excluding a person to whom a non-exclusive license has been granted pursuant to Article 13 (4)) and pledgees under Article 16 (1).

(2) No exclusive licensee may surrender his/her exclusive license without consent from the persons to whom the exclusive licensee granted a non-exclusive license, or from pledgees thereof.

(3) No non-exclusive licensee may surrender his/her non-exclusive license without consent from pledgees thereof.

(4) Once a layout-design right or an exclusive or non-exclusive license is surrendered, the right thereto shall become ineffective immediately upon such surrender.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

## **CHAPTER III REGISTRATION OF LAYOUT-DESIGN RIGHTS**

**Article 19 (Application for Registration of Creation of Layout-Design Rights)** (1) Any person who has created a layout-design or his/her successor (hereinafter referred to as "creator") may file an application to register creation of the layout-design right with the Commissioner of the Korean Intellectual Property Office within two years from the day the layout-design was initially used for making a profit.

(2) Any person who intends to file an application to register creation of a layout-design right pursuant to paragraph (1) shall submit a completed application form for the registration of creation and other accompanying documents, as specified by Presidential Decree (hereinafter referred to collectively as "application").

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 20 (Rejection of Applications)** (1) The Commissioner of the Korean Intellectual Property Office

shall reject an application filed to register creation of a layout-design right if:

1. The applicant is not the creator;
2. The layout-design right is jointly owned by two or more persons, but the application has not been filed jointly by all the joint owners;
3. The time period under Article 19 (1) has elapsed;
4. Any accompanying document required for the application to register creation of the layout-design right has not been submitted or any other ground exists as specified by Presidential Decree.

(2) The Commissioner of the Korean Intellectual Property Office shall, when he/she rejects an application pursuant to paragraph (1), notify the applicant, in writing, of the reasons therefor in detail without delay.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 21 (Registration of Creation and Public Notices)** (1) The Commissioner of the Korean

Intellectual Property Office shall, upon receiving an application to register creation of a layout-design right pursuant to Article 19 (1), register the creation of the layout-design right, unless the application is rejected pursuant to Article 20 (1).

(2) Registration of creation under paragraph (1) is complete when the Commissioner of the Korean Intellectual Property Office records it in the original register of layout-designs.

(3) The Commissioner of the Korean Intellectual Property Office shall, when he/she has completed the registration of creation under paragraph (1), issue a certificate of layout-design registration to the holder of the layout-design right and issue public notice thereof.

(4) Matters necessary to register creation of layout-design rights, including the details to be stated in an application to register creation of a layout-design right, the issuance of a certificate of layout-design registration, the public notification of registered facts of a layout-design, details from the original register of layout-designs, and the request for the inspection of the original register of a layout-design and the issuance of a copy thereof, shall be prescribed by Presidential Decree.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 22 (Registration Marks)**

Any holder of a layout-design right or any exclusive or non-exclusive licensee may place a registration mark of the layout-design on the semiconductor integrated circuits or similar products manufactured using the layout-design and on packing materials therefor, as prescribed by the Commissioner of the Korean Intellectual Property Office.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

- Article 23 (Effects of Registration)** (1) None of the following facts may be asserted against a third party, unless the fact has been registered with the Commissioner of the Korean Intellectual Property Office:
1. A restriction on the transfer (excluding the transfer by inheritance or any other ordinary succession; hereafter the same shall apply in this Article) or disposition of a layout-design right;
  2. A restriction on the grant, transfer, amendment, lapse, or disposition of an exclusive license;
  3. A restriction on the grant, transfer, amendment, lapse, or disposition of a non-exclusive license;
  4. A restriction on the institution, transfer, amendment, lapse, or disposition of a pledge right to a layout-design right or an exclusive or non-exclusive license.
- (2) A non-exclusive license registered with the Commissioner of the Korean Intellectual Property Office is also effective against any person who acquires the relevant layout-design right or an exclusive license for the relevant layout-design right after the non-exclusive license was registered.
- (3) Registration under paragraphs (1) and (2) is complete when the Commissioner of the Korean Intellectual Property Office records it on the original register of layout-designs.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 24 (Cancelling Registered Creation of Layout-Design Rights)**

The Commissioner of the Korean Intellectual Property Office may, if it is discovered that a layout-design, the creation of which has been registered, falls under any of the following subparagraphs, cancel the registration of creation: Provided, That the registration of creation falling under subparagraph 2 or 4 must be cancelled without any exception:

1. If the registration violates a treaty under Article 3 (1);
2. If the registration of creation under Article 21 (1) has been made by deceit or in any other fraudulent way;
3. If the registered layout-design is not creative as defined in Article 6;
4. If the layout-design falls under any of Article 20 (1) 1 through 3.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**CHAPTER IV COMMITTEE FOR DELIBERATION AND MEDIATION ON LAYOUT-DESIGNS**

- Article 25 (Committee for Deliberation and Mediation on Layout-Designs)** (1) A Committee for Deliberation and Mediation on Layout-Designs (hereinafter referred to as the "Committee") shall be established to deliberate on matters concerning layout-design rights and exclusive and non-exclusive licenses

and to mediate disputes arising in connection with rights and interests protected by this Act (hereinafter referred to as "disputes").

(2) The Committee shall be comprised of not less than 10, but not more than 15, deliberators and conciliators (hereinafter referred to as "committee members"), including one Chairperson and one Vice-Chairperson.

(3) Committee members shall be commissioned by the Commissioner of the Korean Intellectual Property Office, and the Chairperson and Vice-Chairperson shall be elected by and from among committee members.

(4) The term of office of each committee member is three years but may be renewed consecutively.

(5) If a vacancy arises among committee members, such vacancy shall be filled by commissioning a person as a committee member for replacement in accordance with paragraph (3), and the term of office of a committee member commissioned to fill a vacancy shall be his/her predecessor's remaining term: Provided, That if the number of remaining committee members is ten persons or more, it does not need to commission another committee member to fill a vacancy.

(6) A quorum of the Committee shall exist when at least two-thirds of its incumbent members are present, and the adoption of a resolution requires the affirmative vote of a majority of the members present. <Newly Inserted by Act No. 13150, Feb. 3, 2015>

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 25-2 (Disqualification, Recusal or Self-Recusal of Members)** (1) Any committee member who falls under any of the following subparagraphs shall be disqualified from the Committee's deliberation or mediation of a specific agenda:

1. Where a committee member or his/her former or current spouse is a party to the agenda to be deliberated or mediated by the Committee, or is a joint right holder or joint obligor with a party to such agenda;
2. Where a committee member is or was a relative of a party to such agenda;
3. Where a committee member has provided advice, conducted research, delivered services or performed appraisal with respect to such agenda;
4. Where a committee member was employed by a legal entity or group, etc. to which a party to such agenda belongs within the last three years;
5. Where a legal entity or organization, etc. to which a member belongs is or was the representative of a party to such agenda.

(2) If a party to the agenda has a ground to believe that he/she can hardly expect impartiality from a committee member in deliberation or mediation, the party may make an application for recusal of the

member, and the Committee shall make a decision thereon by resolution. In such cases, the committee member against whom such application is filed shall not participate in the resolution.

(3) If a committee member finds that he/she is subject to disqualification on the ground specified in any subparagraph of paragraph (1), he/she shall recuse him/herself from deliberation or mediation of the relevant agenda on his/her own initiative.

[This Article Newly Inserted by Act No. 13150, Feb. 3, 2015]

### **Article 25-3 (Decommissioning of Members)**

The Commissioner of the Korean Intellectual Property Office may decommission a committee member, if he/she falls under any of the following subparagraphs:

1. If a committee member is unable to perform his/her duty due to a mental disorder;
2. If a committee member is deemed inappropriate to be a committee member due to his/her neglect of duties, injury to dignity or any other reason;
3. If a committee member is subject to disqualification on the ground specified in any subparagraph of Article 25-2 (1) but fails to recuse him/herself.

[This Article Newly Inserted by Act No. 13150, Feb. 3, 2015]

### **Article 26 (Functions of Committee)**

The Committee shall deliberate on the following matters, in addition to the mediation of disputes:

1. Matters concerning adjudications under Article 13 (4) and the cancellation of adjudications under Article 15;
2. Matters concerning objections against the cancellation of registration of creation under Article 24;
3. Matters that the Commissioner of the Korean Intellectual Property Office or three or more committee members jointly raise for deliberation.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 27 (Procedure for Mediation)** (1) Any person who desires to settle a dispute by mediation may file an application for mediation with the Committee, clearly stating the purport and grounds for the application.

(2) The Committee shall, upon receiving an application under paragraph (1), mediate the case within six months from the filing date of the application.

(3) The Judicial Conciliation of Civil Disputes Act shall apply mutatis mutandis to the procedure for mediation by the Committee, except as otherwise specifically provided for by this Act.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

### **Article 28 (Mediation Panel)**

The Committee shall have a mediation panel, comprised of three committee members, in order for the Committee to mediate disputes in an efficient manner, and at least one member of the panel shall be qualified as an attorney-at-law or a patent attorney.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 29 (Successful Mediations)** (1) A dispute is resolved by mediation when a record on matters agreed between parties is finally prepared.

(2) The record under paragraph (1) has the same effect as settlement in court: Provided, That this shall not apply to the matters of which parties to a case are not allowed to make a disposition in their discretion.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

### **Article 30 (Unsuccessful Mediations)**

Mediation is deemed to have failed if:

1. Either party has not complied with a request from the Committee for appearance or submission of relevant documents on two or more occasions without justifiable grounds;
2. The time period under Article 27 (2) has elapsed.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 31 (Mediation Expenses)** (1) Expenses for mediation shall be borne by the applicant and shall be paid in advance when the application for mediation is filed: Provided, That when mediation is successfully concluded, each party shall pay an equal share of the expenses, unless there is a special agreement to the contrary.

(2) The amount of mediation expenses under paragraph (1) shall be determined by the Committee.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 32 (Suspension of Extinctive Prescription)** (1) An application for mediation has the effect of suspending extinctive prescription.

(2) If no lawsuit is filed within one month after it was finally confirmed that mediation was unsuccessful, mediation has no effect of suspending extinctive prescription.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

### **Article 33 (Structure of Committee)**

The structure and operation of the Committee and other matters necessary for the Committee shall be prescribed by Presidential Decree.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

### **Article 34 (Subsidies for Expenses)**

The State may subsidize expenses incurred in the operation of the Committee within the limit of budget.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

## **CHAPTER V REMEDIES FOR INFRINGEMENTS**

**Article 35 (Demands to Cease from Infringement)** (1) The holder of a layout-design right or the exclusive licensee for a layout-design has a right to demand a person who has infringed or is likely to infringe on his/her layout-design right or exclusive license to cease such infringement or take preventive measures.

(2) The holder of a layout-design right or the exclusive licensee for a layout-design may, when he/she makes a demand under paragraph (1), also demand to destroy semiconductor integrated circuits or similar products already produced by way of infringement or to take any other measures for preventing such infringement.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 36 (Claims for Losses)** (1) The holder of a layout-design right or the exclusive licensee of a layout-design may claim any person who infringes on his/her right by an intentional act or negligence to compensate his/her losses.

(2) Where the holder of a layout-design right or the exclusive licensee of a layout-design makes a claim against a person who has made a profit by way of infringement on his/her right under paragraph (1), such profit is presumed to be the losses sustained by the holder of the layout-design right or the exclusive licensee of the layout-design.

(3) The holder of a layout-design right or the exclusive licensee for a layout-design may, when he/she makes a claim under paragraph (1), demand to pay an amount that he/she can generally charge for the use of the layout-design as the losses sustained by the holder of the layout-design right or the exclusive licensee for the layout-design.

(4) If losses exceed the amount specified in paragraph (3), such excess amount may also be claimed.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 37 (Compensation)** (1) The creator of a layout-design who had used the layout-design for making a profit before the creation of the layout-design was registered may claim any person who used a reproduction of the layout-design for making a profit after the creator's use, but before the registration of the layout-design was completed, knowing that it was a reproduction, to pay compensation equivalent to an amount that the person is generally obligated to pay for such use: Provided, That the payment of such compensation may not be claimed against a person who has received, in good faith and without negligence on the person's part, a semiconductor integrated circuit or similar product manufactured and delivered by using a reproduction of the layout-design.

(2) The right to claim the payment of compensation under paragraph (1) may not be exercised until and unless the creation of the relevant layout-design is registered.

(3) If a registered creation of a layout-design is cancelled pursuant to Article 24, it is deemed that the right to claim the payment of compensation under paragraph (1) had never arisen from the beginning.

(4) Articles 760 (1) and (2) and 766 of the Civil Act shall apply mutatis mutandis to the exercise of a claim under paragraph (1). In such cases, the "date on which the injured party or his/her legal representative becomes aware of such losses and of the identity of the wrongdoer" in Article 766 of the Civil Act is construed as the "date for registering creation of such layout-design", if the holder of the right to claim was aware of the fact that the layout-design had been reproduced before the creation of the layout-design was registered and who used the reproduced layout-design.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

**Article 38 (Claims for Royalties against Bona Fide Persons)** (1) If a bona fide person engages in an act specified in subparagraph 4 (c) of Article 2 with a semiconductor integrated circuit or similar product to make a profit, or keeps or carries a semiconductor integrated circuit or similar product with intent to engage in such act, even after the person becomes aware that the semiconductor integrated circuit or similar product was manufactured by illegally reproducing a layout-design, the holder of the layout-design right or the exclusive licensee for the layout-design may demand the person to pay an amount equivalent to ordinary royalties (hereinafter referred to as "royalties"), notwithstanding Article 9 (3).

(2) Royalties shall be a reasonable amount fixed by an agreement between the holder of the relevant layout-design right or the exclusive license for the layout-design and a bona fide person.

(3) Articles 760 (1) and (2) and 766 of the Civil Act shall apply mutatis mutandis to the exercise of a right to claim under paragraph (1).

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)



## CHAPTER VI SUPPLEMENTARY PROVISIONS

### Article 39 (Hearings)

The Commissioner of the Korean Intellectual Property Office shall, whenever he/she intends to make any of the following dispositions, hold a hearing:

1. Cancellation of an adjudication under Article 15 (1);
2. Cancellation of the registration of creation of a layout-design right under Article 24.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

### Article 40 (Fees) (1) A person shall pay fees if he/she is:

1. A person who intends to file an application for adjudication on a non-exclusive license pursuant to Article 13 (2) or (3) or a person who intends to file an application for the cancellation of an adjudication pursuant to Article 15 (1);
2. A person who intends to register creation of a layout-design right pursuant to Article 21 (1);
3. A person who intends to file for the registration under Article 23 (1) or (2);
4. A person who files an objection against the cancellation of registered creation of a layout-design pursuant to Article 24;
5. A person who intends to file an application for the issuance of any certificate for a layout-design.

(2) The items and amounts of fees under paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013>

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)

### Article 40-2 (Abatement or Exemption of Fees on Registering Creation) (1) Notwithstanding Article

40 (1), the Commissioner of the Korean Intellectual Property Office may abate or exempt the fees on registering creation of layout-design rights, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy, if a person specified by Ordinance of the Ministry of Trade, Industry and Energy, such as a medium and small enterprise, files an application to register creation of a layout-design right. <Amended by Act No. 11690, Mar. 23, 2013>

(2) A person who desires to have the fees on registering creation of a layout-design right abated or exempted pursuant to paragraph (1) shall submit to the Commissioner of the Korean Intellectual Property Office the documents specified by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013>

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

- Article 40-3 (Refunds of Fees Mistakenly Paid)** (1) Fees already paid are not refundable: Provided, That fees mistakenly paid shall be refunded to the payer upon his/her request.
- (2) The Commissioner of the Korean Intellectual Property Office shall, if he/she discovers that any fees have been mistakenly paid, notify the payer as to such fact.
- (3) No one may claim a refund under the proviso to paragraph (1), if three years have passed since a notice under paragraph (2) was served to him/her.

[This Article Newly Inserted by Act No. 9183, Dec. 26, 2008]

**Article 41 (Judicial Jurisdiction over Non-Residents)**

With regard to non-residents' layout-design rights, the address or place of business of a layout-design administrator is deemed to be the location of property under Article 11 of the Civil Procedure Act if a layout-design administrator has been appointed, while the location of the Supreme Court is deemed to be the location of property if no layout-design administrator has been appointed.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 42** Deleted. <by Act No. 5599, Dec. 28, 1998>

- Article 43 (Fostering of Layout-Design Technology)** (1) The Commissioner of the Korean Intellectual Property Office shall establish policies necessary to improve technology for domestic layout-designs and to promote development of such products and prepare supportive measures in taxation, finance, and administration.
- (2) The Commissioner of the Korean Intellectual Property Office may support and foster any research institute or organization that promotes technology and trains personnel for layout-design.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 44 (Duty of Confidentiality)**

No public official who is or has ever been in charge of the registration of layout-designs under the provisions of Articles 19 through 24 nor any person who is or has ever been a committee member under Article 25 (2) shall divulge to others any secret known to him/her in the course of his/her performance of duties.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

**Article 44-2 (Legal Fiction as Public Official in Application of Penalty Provisions)**

Any committee member under Article 25 (1), who is not a public official, shall be deemed a public official in applying Articles 129 through 132 of the Criminal Act.

[This Article Newly Inserted by Act No. 13150, Feb. 3, 2015]

## CHAPTER VII PENALTY PROVISIONS

**Article 45 (Offense of Infringement)** (1) Any person who infringes on a layout-design right or an exclusive license shall be punished by imprisonment with labor for not more than three years or a fine not exceeding thirty million won, or by both imprisonment with labor and a fine, concurrently. <Amended by Act No. 12289, Jan. 21, 2014>

(2) An offense under paragraph (1) may be prosecuted only when a criminal complaint has been filed.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 46 (Offense of False Marking)**

Any person who falsely places a registration mark under Article 22 on a semiconductor integrated circuit manufactured by using a layout-design, the creation of which has not been registered in accordance with Article 21 (1), or on any packing material therefor or any person who transfers or lends to anyone a semiconductor integrated circuit with a false registration mark thereon shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding ten million won.<Amended by Act No. 12289, Jan. 21, 2014>

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 47 (Offense of Fraud)**

Any person who files for registration of creation under Article 21 (1) by deceit or in any other fraudulent manner shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding ten million won.<Amended by Act No. 12289, Jan. 21, 2014>

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 48 (Offense of Secret Divulgence)**

Any person who divulges a secret in violation of Article 44 shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding fifty million won.

[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008]

### **Article 49 (Joint Penalty Provisions)**

If the representative of a legal entity or an agent, an employee, or a servant of a legal entity or a private individual commits an offense under Article 45 (1), 46, or 47 in the course of performing the duties of the legal entity or the private individual, not only shall such actor be punished accordingly, but the legal entity or the private individual shall also be punished by the fine prescribed in the relevant Article: Provided, That the same shall not be applicable if the legal entity or the private individual has exercised reasonable care in supervision over relevant duties in order to prevent such offense.

[\[This Article Wholly Amended by Act No. 9183, Dec. 26, 2008\]](#)