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Semiconductor Integrated Circuits Layout-design Act, 2000

Section 18 - Infringement of Layout-design

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(1) A registered layout-design is infringed by a person who, not being the registered proprietor of the layout-design or a registered user thereof,--

(a) does any act of reproducing, whether by incorporating in a semiconductor integrated circuit or otherwise, a registered layout-design in its entirety or any part thereof, except such act of reproducing any part thereof which is not original within the meaning of sub-section (2) of section 7;

(b) subject to the provisions of sub-section (5), does any act of importing or selling or otherwise distributing for commercial purposes a registered layout-design or a semiconductor integrated circuit incorporating such registered layout-design or an article incorporating such a semiconductor integrated circuit containing such registered layout-design for the use of which such person is not entitled under this Act. Registration to be prima facie evidence of validity.--

(2) Notwithstanding anything contained in section 17, sub-section (1) or sub-section (5), the performance of the act of reproduction referred to in clause (a) of sub-section (1), where such act is performed for the limited purposes of scientific evaluation, analysis, research or teaching, shall not constitute act of infringement within the meaning of that clause.

(3) Where a person, on the basis of scientific evaluation or analysis of a registered layout-design, creates another layout-design which is original within the meaning of subsection (2) of section 7, that person shall have the right to incorporate such another layout-design in a semiconductor integrated circuit or to perform any of the acts referred to in subsection (1) or sub-section (5) in respect of such another layout-design and such incorporation or performance of any act shall not be regarded as infringement within the meaning of subsection (1).

(4) Where a layout-design is created by the process of scientific evaluation or analysis of the registered layout-design as referred to in sub-section (3), the use of such layout-design by the proprietor of such registered layout-design shall be regarded as infringement within the meaning of sub-section (1) after the date of registration of such layout-design under this Act.

(5) Notwithstanding anything contained in clause (b) of sub-section (1), the performance of any of the acts referred to in that clause by a person shall not be regarded as infringement within the meaning of that clause if such act is performed or directed to be performed in respect of a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit where such person does not possess any knowledge or has no reasonable ground to know while performing or directing to be performed such act in respect of such semiconductor integrated circuit or article that it incorporated a registered layout-design but after the time when such person has received notice of such knowledge, he may continue to perform or directing to be performed such act in respect of the sk on hand or ordered before such time and, then, he shall be liable to pay the proprietor of the registered layout-design a sum by way of royalty to be determined by negotiation between registered proprietor of the registered layout-design and that person or by the Appellate Board having regard to the benefit accrued to such person by performing or directing to be performed such act in respect of such semiconductor integrated circuit or article, as the case may be.

(6) Where any other person purchases a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit referred to in sub-section (5) from a person referred to in that sub-section, then, such other person shall be entitled to the immunity from infringement in respect of that semiconductor integrated circuit or article, as the case may be, to the extent and in the manner as if the word "person" referred in that sub-section includes the word any other person referred in this sub-section.

(7) Nothing contained in clause (b) of sub-section(1) shall be construed as constituting an act of infringement where any person performs any of the acts specified in that clause with the written consent of the registered proprietor of a registered layout-design or within the control of the person obtaining such consent, or in respect of a registered layout-design or a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit, that has been put on the market by or with the consent of the registered proprietor of such registered layout-design.

(8) Notwithstanding anything contained in this Act, where any person by application of independent intellect has created a layout-design which is identical to a registered layout-design, then, any act of such person in respect of the layout-design so created shall not be the infringment of the registered layout-design.

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