

Semiconductor Integrated Circuits Layout-design Act, 2000

Chapter X - Miscellaneous

Notwithstanding anything contained in this Act, the Registrar shall--

(a) not disclose any information relating to the registration of a layout-design or any application relating to the registration of a layout-design under this Act which the Central Government considers prejudicial to the interest of the security of India; and

(b) take any action, including the cancellation of registration of a layout-design registered under this Act, which the Central Government may, by notification in the Official Gazette, specify in the interest of security of India.

Explanation.--For the purposes of this section, the expression "interest of the security of India" means any action necessary for the security of India which relates to the use of a layout-design or a semiconductor integrated circuit incorporating a layout-design or an article incorporating such semiconductor integrated circuit and which--

(a) relates to fissionable materials or the materials from which they are derived; or

(b) relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; or

(c) is taken in time of war or other emergency in international relations.

Section 69 - Protection of action taken in good faith

No suit or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Section 70 - Certain persons to be public servants

Every person appointed, under this Act and every Member of the Appellate Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Section 71 - Implied warranty on sale of layout-design, etc.

Where a registered layout-design, or a semiconductor integrated circuit in which a registered layout-design is incorporated, or an article incorporating such a semiconductor integrated circuit is sold or has been contracted for sale, the seller shall be deemed to warrant that the registration, of such layout-design or the layout-design so incorporated is genuine within the meaning of this Act unless the contrary is expressed in writing signed by or on behalf of the seller and delivered at the time of the sale or contract to sell of such layout-design, or semiconductor integrated circuit or article, as the case may be, and accepted by the buyer.

Section 72 - Powers of Registrar

In all proceedings under this Act before the Registrar,--

(a) the Registrar shall have all the powers, of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;

(b) the Registrar may, subject to any rules in this behalf, made under section 96 make such orders as to costs as he considers reasonable, and any such order shall be executable as decree to a civil court;

(c) the Registrar may, on an application made in the prescribed manner, review his own decision.

Section 73 - Exercise of discretionary power by Registrar

Subject to the provisions of section 76, the Registrar shall not exercise any discretionary or other power vested in him by this Act or the rules made thereunder adversely to a person applying for the exercise of the power without (if so required by that person within the prescribed time) giving to the person an opportunity of being heard.

Section 74 - Evidence before Registrar

In any proceeding under this Act before the Registrar, evidence shall be given by affidavit:

Provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit.

Section 75 - Death of party to a proceeding

If a person who is a party to a proceeding under this Act (not being a proceeding before the Appellate Board or a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

Section 76 - Extension of time

(1) If the Registrar is satisfied, on application made to him in the prescribed manner and accompanied by the prescribed fee, that there is sufficient cause for extending the time for doing any act (not being a time expressly provided in the Act), whether the time so specified has expired or not, he may, subject to such conditions as he may think fit to impose, extend the time and inform the parties accordingly.

(2) Nothing in sub-section (1) shall be deemed to require the Registrar to hear the parties, before disposing of an application for extension of time and no appeal shall lie from any order of the Registrar under this section.

Section 77 - Abandonment

Where, in the opinion of the Registrar, an applicant is in default in the prosecution of an application filed under this Act, the Registrar may, by notice require the applicant to remedy the default within a time specified and after giving him, if so desired, an opportunity of being heard, treat the application as abandoned, unless the default is remedied within the time specified in the notice.

Section 78 - Preliminary advice by the Registrar

(1) The Registrar may, on application made to him in the prescribed manner by any person who proposes to apply for the registration of a layout-design, give advice as to whether the layout-design appears to him prima facie to be original.

(2) If, on an application for the registration of a layout-design as to which the Registrar has given advice as aforesaid in the affirmative made within three months after the advice was given, the Registrar, after further investigation or consideration, gives notice, to the applicant of objection on the ground that the layout-design is not original, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the filing of the application.

Section 79 - Registered user to be impleaded in certain proceedings

(1) In every proceeding under Chapter VII or under section 42, every registered user of a layout-design, who is not himself an applicant in respect of any proceeding under that Chapter or section shall be made a party to the proceeding.

(2) Notwithstanding anything contained in any other law, a registered user so made a party to the proceeding shall not be liable for any costs unless he enters an appearance and takes part in the proceeding.

Section 80 - Evidence of entries in register, etc., and things done by the Registrar

(1) A copy of any entry in the register or of any document referred to in sub-section (1) of section 87 purporting to be certified by the Registrar and sealed with the seal of the Semiconductor Integrated Circuits Layout-Design Registry shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

(2) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be prima facie evidence of the entry having been made, and of the contents thereof, or of the matter or things having been done or not done.

Section 81 - Registrar and other officers not compellable to produce register, etc

The Registrar or any other officer of the Semiconductor Integrated Circuits Layout-Design Registry shall not, in any legal proceedings to which he is not a party, be compellable to produce the register or any other document in his custody, the contents of which can be proved by the production of a certified copy issued under this Act or to appear as a witness to prove the matters therein recorded unless by order of the court made, for special cause.

Section 82 - Certificate of validity

If in any legal proceeding for rectification of the register before the Appellate Board a decision is on contest given in favour of the registered proprietor of the layout-design on the issue as to the validity of the registration of the layout-design, the Appellate Board may grant a certificate to that effect, and if such a certificate is granted, then, in any subsequent legal proceedings in which the said validity comes into question, the said proprietor on obtaining a final order or judgment in his favour affirming validity of the registration of the layout-design shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full cost, charges and expenses as between legal practitioner and client.

Section 83 - Address for service

An address for service stated in an application or notice of opposition shall, for the purposes of the application or notice of opposition, be deemed to be the address of the applicant or opponent, as the

case may be, and all documents in relation to the application or notice of opposition may be served by leaving them at or sending them by post to the address for service of the applicant or opponent, as the case may be.

Section 84 - Agents

Where, by or under this Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules made in this behalf, be done, instead of by that person himself, by a person duly authorised in the prescribed manner, who is--

- (a) a legal practitioner, or
- (b) a person registered in the prescribed manner as a layout-design agent, or
- (c) a person in the sole and regular employment of the principal.

Section 85 - Layout-design registered by an agent or representative without authority

If an agent or a representative of the proprietor of a registered layout-design, without authority uses or attempts to register or registers the layout-design in his own name, the proprietor shall be entitled to oppose the registration applied for or secure its cancellation or rectification of the register so as to bring him as the registered proprietor of the said layout-design by assignment in his favour:

Provided that such action shall be taken within three years of the registered proprietor of the layout-design becoming aware of the conduct of the agent or representative.

Section 86 - Indexes

There shall be kept under the direction and supervision of the Registrar--

- (a) an index of registered layout-designs,
- (b) an index of layout-designs in respect of which applications for registration are pending.
- (c) an index of the names of the proprietors of registered layout-designs, and
- (d) an index of the names of registered users.

Section 87 - Documents open to public inspection

(1) Save as otherwise provided in sub-section (4) of section 25,--

- (a) the register and any document upon which any entry in the register is based;
- (b) every notice of opposition to the registration of a layout-design application for rectification before the Registrar, counter-statement thereto, and any affidavit or document filed by the parties in any proceedings before the Registrar; and
- (c) the indexes mentioned in section 86 and such other documents as the Central Government may, by notification in the Official Gazette, specify;

shall, subject to such conditions as may be prescribed, be open to public inspection at the Semiconductor Integrated Circuits Layout-Design Registry.

(2) Any person may, on an application to the Registrar and on payment of such fees as may be prescribed, obtain a certified copy of any entry in the register or any document referred to in sub-section (1).

Section 88 - Reports of Registrar to be placed before Parliament

The Central Government shall cause to be placed before both Houses of Parliament once a year a report respecting the execution by or under the Registrar of this Act.

Section 89 - Fees and surcharge

(1) There shall be paid in respect of applications and registration and other matters under this Act such fees and surcharge as may be prescribed by the Central Government.

(2) Where a fee is payable in respect of the doing of an act by the Registrar, the Registrar shall not do that act until the fee has been paid.

(3) Where a fee is payable in respect of the filing of a document at the Semiconductor Integrated Circuits Layout-Design Registry, the document shall be deemed not to have been filed at the Registry until the fee has been paid.

Section 90 - Savings in respect of Chapter IX

Nothing in Chapter IX shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Section 91 - Declaration as to ownership of layout-design not registerable under the Registration Act, 1908

Notwithstanding anything contained in the Registration Act, 1908, no document declaring or purporting to declare the ownership or title of a person to a layout-design other than a registered layout-design shall be registered under that Act.

Section 92 - Government to be bound

The provisions of this Act shall be binding on the Government.

Section 93 - Convention countries

With a view to the fulfilment of a treaty, convention or arrangement with any country outside India which affords to citizens of India similar privileges as granted to its own citizens, the Central Government may, by notification in the Official Gazette, specify such country to be a convention country for providing the citizens of such convention country the similar privileges as granted to the citizens of India under this Act.

Explanation.--For the purposes of this section "country" includes any group of countries or union of countries or inter-governmental organisation and the expression "convention country" shall be construed accordingly.

Section 94 - Provision as to reciprocity

Where any country specified by the Central Government, in this behalf by notification in the Official Gazette under section 93 does not accord to citizens of India the same rights in respect of registration and protection of layout-design as it accords to its own nationals, no national of such country shall be entitled, either solely or jointly with any other person,--

- (a) to apply for the registration of, or be registered as the proprietor of, a layout-design;
- (b) to be registered as the assignee of the proprietor of a registered layout-design; or
- (c) to apply for registration or be registered as a registered user of a layout-design under section 25.

Section 95 - Power of Central Government to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Section 96 - Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

- (a) the other matters relating to the registered layout-designs to be entered in the register under sub-section (1) of section 6;
- (b) the manner of applying to the Registrar for registration under sub-section (1) of section 8;
- (c) the manner of advertising the application under sub-section (1) of section 10;
- (d) the manner of notifying the correction or amendment in application under sub-section (2) of section 10;
- (e) the manner of making application, the fee to be paid and the manner of giving notice under sub-section (1) of section 11;
- (f) the manner of sending counter statement under sub-section (2) of section 11;
- (g) the manner of submitting evidence under sub-section (4) of section 11;
- (h) the form of issuing certificate under sub-section (2) of section 13;
- (i) the manner of giving notice under sub-section (3) of section 13;
- (j) the manner of making applications to register the title under sub-section (1) of section 23;
- (k) the manner of applying to Registrar under sub-section (1) of section 25;
- (l) the document to be prescribed under clause (c) of sub-section (1) of section 25;
- (m) the manner of issuing notice under sub-section (3) of section 25;
- (n) the manner of applications under clause (a) of sub-section (1) of section 26;
- (o) the manner of making applications under clause (b) of sub-section (1) of section 26;

- (p) the manner of making applications under clause (c) of sub-section (1) of section 26;
- (g) the manner of issuing notice under sub-section (2) of section 26;
- (r) the procedure of cancelling registration under sub-section (3) of section 26;
- (s) the manner of applying to the Appellate Board under sub-section (1) of section 30;
- (t) the manner of giving notice under sub-section (3) of section 30;
- (u) the manner of serving notice under sub-section (4) of section 30;
- (v) the manner of making application under sub-section (1) of section 31;
- (w) the manner of making application under sub-section (2) of section 31;
- (x) the salaries and allowances payable to and other terms and conditions of service of the Chairperson, Vice-Chairperson and other Members under sub-section (1) of section 37;
- (y) the procedure for investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson and other Members under sub-section (3) of section 38;
- (z) the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Board under sub-section (2) of section 39;
- (za) the manner of general superintendence by the Chairperson under subsection (3) of section 39;
- (zb) the form of application, the affidavit, documents and other evidence and fee payable in respect of, filing of such application and other fees for the services or execution of process to be accompanied therewith under sub-section (2) of section 40;
- (zc) the time limit for filing the opposition under sub-section (3) of section 40;
- (zd) the form of making application and the fee to be accompanied therewith under sub-section (1) of section 41;
- (ze) the manner of giving notice under sub-section (2) of section 41;
- (zf) the form of appeal, the manner of verification of such appeal and the fee to be accompanied therewith under sub-section (3) of section 42;
- (zg) any other matter to be prescribed under clause (d) of sub-section (2) of section 43;
- (zh) the form of application under sub-section (1) of section 48;
- (zi) the manner of making application under sub-section (1) of section 51;
- (zj) the period to be prescribed under the first proviso to sub-section (1) of section 51;
- (zk) the manner of giving notice and opportunity of hearing to the parties under sub-section (3) of section 51;
- (zl) the period to be prescribed under sub-section (1) of section 53;
- (zm) the form of petition and particulars to be contained therein under sub-section (2) of section 53;
- (zn) the manner of reviewing decisions by the registrar under clause (c) of section 72;
- (zo) the time to be prescribed under section 73;
- (zp) the manner of making application and the fee to be accompanied therewith under sub-section (1) of section 76;

- (zq) the manner of making application under sub-section (1) of section 78;
- (zr) the period of giving notice of withdrawal of application under sub-section (2) of section 78;
- (zs) the manner of authorising a person under section 84;
- (zt) the manner of registering a person as a layout-design agent under clause (b) of section 84;
- (zu) the conditions to be prescribed under sub-section (1) of section 87;
- (zv) the fee payable under sub-section (2) of section 87;
- (zw) the fees and the surcharge to be paid under sub-section (1) of section 89;
- (zx) any other matter which is required to be or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.