

H. No. 9827

AN ACT PROVIDING FOR THE PROTECTION OF LAYOUT-
DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS,
AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF
REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS THE
INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES
AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

1 SECTION 1. Sections 112, 113, 114, 116, 117, 118, 119 and 120
2 under Chapter XIII of Republic Act No. 8293 are hereby amended to read
3 as follows:

4 CHAPTER XIII

5 INDUSTRIAL DESIGN AND LAYOUT-DESIGNS (TOPOGRAPHIES) OF
6 INTEGRATED CIRCUITS

7 “SEC. 112. *Definition [(of Industrial Design)] OF TERMS:*

8 “(1) An industrial design is any composition of lines or colors or any
9 three-dimensional form, whether or not associated with lines or colors:

1 *Provided*, That such composition or form gives a special appearance to and
2 can serve as pattern for an industrial product or handicraft; [(Section 55,
3 Republic Act No. 165)]

4 **“(2) INTEGRATED CIRCUIT MEANS A PRODUCT, IN ITS FINAL**
5 **FORM, OR AN INTEGRATED FORM, IN WHICH THE ELEMENTS, AT LEAST**
6 **ONE OF WHICH IS AN ACTIVE ELEMENT, AND SOME OR ALL OF THE**
7 **INTERCONNECTIONS ARE INTEGRALLY FORMED IN AND/OR ON A PIECE**
8 **OF MATERIAL, AND WHICH IS INTENDED TO PERFORM AN ELECTRONIC**
9 **FUNCTION; AND**

10 **“(3) LAYOUT-DESIGN IS SYNONYMOUS WITH “TOPOGRAPHY” AND**
11 **MEANS THE THREE-DIMENSIONAL DISPOSITION, HOWEVER EXPRESSED,**
12 **OF THE ELEMENTS, AT LEAST ONE OF WHICH IS AN ACTIVE ELEMENT,**
13 **AND OF SOME OR ALL OF THE INTERCONNECTIONS OF AN INTEGRATED**
14 **CIRCUIT, OR SUCH A THREE-DIMENSIONAL DISPOSITION PREPARED FOR**
15 **AN INTEGRATED CIRCUIT INTENDED FOR MANUFACTURE.**

16 **“SEC. 113. *Substantive Conditions for Protection.* – 113.1. Only**
17 **industrial designs that are new or [original] ORNAMENTAL shall benefit**
18 **from protection under this Act.**

19 **“113.2. Industrial designs dictated essentially by technical or**
20 **functional considerations to obtain a technical result or those that are**
21 **contrary to public order, health or morals shall not be protected.**

22 **“113.3 ONLY LAYOUT-DESIGNS OF INTEGRATED CIRCUITS THAT**
23 **ARE ORIGINAL SHALL BENEFIT FROM PROTECTION UNDER THIS ACT. A**

LAYOUT-DESIGN SHALL BE CONSIDERED ORIGINAL IF IT IS THE RESULT OF ITS CREATOR'S OWN INTELLECTUAL EFFORT AND IS NOT COMMONPLACE AMONG CREATORS OF LAYOUT-DESIGNS AND MANUFACTURES OF INTEGRATED CIRCUITS AT THE TIME OF ITS CREATION.

"113.4.A LAYOUT-DESIGN CONSISTING OF A COMBINATION OF ELEMENTS AND INTERCONNECTIONS THAT ARE COMMONPLACE SHALL BE PROTECTED ONLY IF THE COMBINATION, TAKEN AS A WHOLE, IS ORIGINAL.

"SEC. 114. *Contents of the Application.* – 114.1. Every application for registration of an industrial design OR LAYOUT-DESIGN shall contain:

"(a) A request for registration of the industrial design OR LAYOUT-DESIGN;

"(b) Information identifying the applicant;

"(c) An indication of the kind of article of manufacture or handicraft to which the INDUSTRIAL design OR LAYOUT-DESIGN shall be applied;

"(d) A representation of the article of manufacture or handicraft by way of drawings, photographs or [other] adequate graphic representation of the INDUSTRIAL design OR OF THE LAYOUT-DESIGN as applied to the article of manufacture or handicraft which clearly and fully discloses those feature for which [design] protection is claimed; and

1 “(e) The name and address of the creator, or where the applicant is
2 not the creator, a statement indicating the origin of the right to the
3 industrial design OR LAYOUT-DESIGN registration.

4 “114.2. The application may be accompanied by a specimen of the
5 article embodying the industrial design OR LAYOUT-DESIGN and shall be
6 subject to the payment of the prescribed fee.

7 “SEC. 116. *Examination.* – 116.1. The Office shall accord as the
8 filing date the date of receipt of the application containing indications
9 allowing the identity of the applicant to be established and a representation
10 of the article embodying the industrial design OR THE LAYOUT-DESIGN or
11 a pictorial representation thereof.

12 “116.2. If the application does not meet these requirements, the
13 filing date should be that date when all the elements specified in Section
14 [105] 114 are filed or the mistakes corrected. Otherwise, if the
15 requirements are not complied within the prescribed period, the application
16 shall be considered withdrawn.

17 “116.3. After the application has been accorded a filing date and the
18 required fees paid on time, the applicant shall comply with the
19 requirements of Section 114 within the prescribed period, otherwise the
20 application shall be considered withdrawn.

21 “116.4 The Office shall examine whether the industrial design OR
22 LAYOUT-DESIGN complies with requirements of Section 112 (Definitions)

1 and [Subsections 113.2 and 113.3] **SECTION 113** (Substantive Conditions
2 for Protection).

3 “SEC. 117. *Registration.* – 117.1. Where the Office finds that the
4 conditions referred to in Section 113 are fulfilled, it shall order that
5 registration be effected in the industrial design **OR LAYOUT-DESIGN**
6 register and cause the issuance of an industrial design **OR LAYOUT-DESIGN**
7 certificate of registration; otherwise, it shall refuse the application.

8 “117.2. The form and contents of an industrial design **OR LAYOUT-**
9 **DESIGN** certificate shall be established by the regulations: *Provided, That*
10 the name and address of the creator shall be mentioned in every case.

11 “117.3. Registration shall be published in the form and within the
12 period fixed by the regulations.

13 “117.4. The Office shall record in the register any change in the
14 identity of the proprietor of the industrial design **OR LAYOUT-DESIGN** or his
15 representative, if proof thereof is furnished to it. A fee shall be paid, with
16 the request to record the change in the identity of the proprietor. If the fee
17 is not paid, the request shall be deemed not to have been filed. In such
18 case, the former proprietor and the former representative shall remain
19 subject to the rights and obligations as provided in this Act.

20 “117.5. Anyone may inspect the register and the files of registered
21 industrial designs **OR LAYOUT-DESIGNS** including files of cancellation
22 proceedings.

1 “SEC. 118. *The Term of Industrial Design OR LAYOUT-DESIGN*
2 *Registration.* – 118.1. The registration of an industrial design shall be for a
3 period of five (5) years from the filing date of the application.

4 “118.2. The registration of an industrial design may be renewed for
5 not more than two (2) consecutive periods of five (5) years each, by paying
6 the renewal fee.

7 “118.3. The renewal fee shall be paid within twelve (12) months
8 preceding the expiration of the period of registration. However, a grace
9 period of six (6) months shall be granted for payment of the fees after such
10 expiration, upon payment of a surcharge.

11 “118.4. The regulations shall fix the amount of renewal fee, the
12 surcharge and other requirements regarding the recording of renewals of
13 registration.

14 “118.5. **REGISTRATION OF A LAYOUT-DESIGN UNDER THIS LAW**
15 **SHALL BE VALID FOR A PERIOD OF TEN (10) YEARS FROM THE DATE OF**
16 **COMMENCEMENT OF PROTECTION WITHOUT RENEWAL. PROTECTION**
17 **OF A LAYOUT-DESIGN UNDER THIS ACT SHALL COMMENCE:**

18 “(A) **ON THE DATE OF THE FIRST COMMERCIAL EXPLOITATION,**
19 **ANYWHERE IN THE WORLD, OF THE LAYOUT-DESIGN BY OR WITH THE**
20 **CONSENT OF THE RIGHT HOLDER: PROVIDED, THAT AN APPLICATION**
21 **FOR REGISTRATION IS FILED WITH THE INTELLECTUAL PROPERTY**
22 **OFFICE WITHIN TWO (2) YEARS FROM SUCH DATE OF FIRST**
23 **COMMERCIAL EXPLOITATION; OR**

1 “(B) ON THE FILING DATE ACCORDED TO THE APPLICATION FOR
2 THE REGISTRATION OF THE LAYOUT-DESIGN IF THE LAYOUT DESIGN HAS
3 NOT BEEN PREVIOUSLY EXPLOITED COMMERCIALY ANYWHERE IN THE
4 WORLD.

5 “SEC. 119. *Application of Other Sections and Chapters.* – 119.1.
6 The following provisions relating to patents shall apply *mutatis mutandis*
7 to an industrial design registration:

8 “Section 21 - Novelty;

9 “Section 24 - Prior art: *Provided*, That the disclosure is
10 contained in printed documents or in any tangible form;

11 “Section 25 - Non-prejudicial Disclosure;

12 [Section 27 - Inventions Created Pursuant to a
13 Commission];

14 “Section 28 - Right to a Patent;

15 “Section 29 - First to File Rule;

16 “SECTION 30 - INVENTIONS CREATED PURSUANT TO A
17 COMMISSION;

18 “Section 31 - Right of Priority: *Provided*, That the
19 application for industrial design shall be filed within six (6) months from
20 the earliest filing date of the corresponding foreign application;

21 “Section 33 - Appointment of Agent or Representative;

22 “Section 51 - Refusal of the Application;

1 “Sections 56 to 60 - Surrender, Correction of and Changes in
2 Patent;

3 “Chapter VII - Remedies of a Person with a Right to Patent;

4 “Chapter VIII - Rights of Patentees and Infringement of
5 Patents; and

6 “Chapter XI - Assignment and Transmission of Rights.

7 “119.2. If the essential elements of an industrial design which is the
8 subject of an application have been obtained from the creation of another
9 person without his consent, protection under this Chapter cannot be
10 invoked against the injured party.

11 **“119.3. THE FOLLOWING PROVISIONS RELATING TO PATENTS**
12 **SHALL APPLY *MUTATIS MUTANDIS* TO A LAYOUT DESIGN OF INTEGRATED**
13 **CIRCUITS REGISTRATION:**

14 **“SECTION 28 - RIGHT TO A PATENT;**

15 **“SECTION 29 - FIRST TO FILE RULE;**

16 **“SECTION 30 - INVENTIONS CREATED PURSUANT TO A**
17 **COMMISSION;**

18 **“SECTION 33 - APPOINTMENT OF AGENT OR**
19 **REPRESENTATIVE;**

20 **“SECTION 56 - SURRENDER OF PATENT;**

21 **“SECTION 57 - CORRECTION OF MISTAKES OF THE OFFICE;**

22 **“SECTION 58 - CORRECTION OF MISTAKES IN THE**
23 **APPLICATION;**

1 “SECTION 59 - CHANGES IN PATENTS;

2 “SECTION 60 - FORM AND PUBLICATION OF AMENDMENT;

3 “CHAPTER VII - REMEDIES OF A PERSON WITH A RIGHT TO
4 PATENT;

5 “CHAPTER VIII- RIGHTS OF PATENTEES AND INFRINGEMENT
6 OF PATENTS: *PROVIDED*, THAT THE LAYOUT-DESIGN RIGHTS AND
7 LIMITATION OF LAYOUT-DESIGN RIGHTS PROVIDED HEREUNDER SHALL
8 GOVERN;

9 “CHAPTER X - COMPULSORY LICENSING; AND

10 “CHAPTER XI - ASSIGNMENT AND TRANSMISSION OF RIGHTS.

11 “119.4. RIGHTS CONFERRED TO THE OWNER OF ALL LAYOUT-
12 DESIGN REGISTRATION. - THE OWNER OF A LAYOUT-DESIGN
13 REGISTRATION SHALL ENJOY THE FOLLOWING RIGHTS:

14 “(1) TO REPRODUCE, WHETHER BY INCORPORATION IN AN
15 INTEGRATED CIRCUIT OR OTHERWISE, THE REGISTERED LAYOUT-
16 DESIGN IN ITS ENTIRETY OR ANY PART THEREOF, EXCEPT THE ACT OF
17 REPRODUCING ANY PART THAT DOES NOT COMPLY WITH THE
18 REQUIREMENT OF ORIGINALITY; AND

19 “(2) TO SELL OR OTHERWISE DISTRIBUTE FOR COMMERCIAL
20 PURPOSES THE REGISTERED LAYOUT-DESIGN, AN ARTICLE OR AN
21 INTEGRATED CIRCUIT IN WHICH THE REGISTERED LAYOUT-DESIGN IS
22 INCORPORATED.

23 “119.5. LIMITATIONS OF LAYOUT RIGHTS. - THE OWNER OF A
24 LAYOUT-DESIGN HAS NO RIGHT TO PREVENT THIRD PARTIES FROM

1 REPRODUCING, SELLING OR OTHERWISE DISTRIBUTING FOR
2 COMMERCIAL PURPOSES THE REGISTERED LAYOUT-DESIGN IN THE
3 FOLLOWING CIRCUMSTANCES:

4 “(1) REPRODUCTION OF THE REGISTERED LAYOUT DESIGN FOR
5 PRIVATE PURPOSES OR FOR THE SOLE PURPOSE OF EVALUATION,
6 ANALYSIS, RESEARCH OR TEACHING;

7 “(2) WHERE THE ACT IS PERFORMED IN RESPECT OF A LAYOUT-
8 DESIGN CREATED ON THE BASIS OF SUCH ANALYSIS OR EVALUATION AND
9 WHICH IS ITSELF ORIGINAL IN THE MEANING AS PROVIDED HEREIN;

10 “(3) WHERE THE ACT IS PERFORMED IN RESPECT OF A
11 REGISTERED LAYOUT-DESIGN, OR IN RESPECT OF AN INTEGRATED
12 CIRCUIT IN WHICH SUCH A LAYOUT-DESIGN IS INCORPORATED, THAT
13 HAS BEEN PUT ON THE MARKET BY OR WITH THE CONSENT OF THE
14 RIGHT HOLDER;

15 “(4) IN RESPECT OF AN INTEGRATED CIRCUIT WHERE THE
16 PERSON PERFORMING OR ORDERING SUCH AN ACT DID NOT KNOW AND
17 HAD NO REASONABLE GROUND TO KNOW WHEN ACQUIRING THE
18 INTEGRATED CIRCUIT OR THE ARTICLE INCORPORATING SUCH AN
19 INTEGRATED CIRCUIT, THAT IT INCORPORATED AN UNLAWFULLY
20 REPRODUCED LAYOUT-DESIGN: *PROVIDED, HOWEVER,* THAT AFTER THE
21 TIME THAT SUCH PERSON HAS RECEIVED SUFFICIENT NOTICE THAT THE
22 LAYOUT-DESIGN WAS UNLAWFULLY REPRODUCED, THAT PERSON MAY
23 PERFORM ANY OF THE SAID ACTS ONLY WITH RESPECT TO THE STOCK
24 ON HAND OR ORDERED BEFORE SUCH TIME AND SHALL BE LIABLE TO
25 PAY TO THE RIGHT HOLDER A SUM EQUIVALENT TO AT LEAST FIVE

1 PERCENT (5%) OF NET SALES OR SUCH OTHER REASONABLE ROYALTY
2 AS WOULD BE PAYABLE UNDER A FREELY NEGOTIATED LICENSE IN
3 RESPECT OF SUCH LAYOUT-DESIGN; OR

4 “(5) WHERE THE ACT IS PERFORMED IN RESPECT OF AN
5 IDENTICAL LAYOUT-DESIGN WHICH IS ORIGINAL AND HAS BEEN
6 CREATED INDEPENDENTLY BY A THIRD PARTY.

7 “SEC. 120. *Cancellation of Design Registration.* – 120.1. At any
8 time during the term of the industrial design registration, any person upon
9 payment of the required fee, may petition the Director of Legal Affairs to
10 cancel the industrial design on any of the following grounds:

11 “(a) If the subject matter of the industrial design is not registerable
12 within the terms of Sections 112 and 113;

13 “(b) If the subject matter is not new; or

14 “(c) If the subject matter of the industrial design extends beyond the
15 content of the application as originally filed.

16 “120.2. Where the grounds for cancellation relate to a part of the
17 industrial design, cancellation may be effected to such extent only. The
18 restriction may be effected in the form of an alteration of the effected
19 features of the designs.

20 “120.3. **GROUND FOR CANCELLATION OF LAYOUT DESIGN OF**
21 **INTEGRATED CIRCUITS.** – ANY INTERESTED PERSON MAY PETITION
22 **THAT THE REGISTRATION OF A LAYOUT-DESIGN BE CANCELLED ON THE**
23 **GROUND THAT:**

1 “(I) THE LAYOUT-DESIGN IS NOT PROTECTABLE UNDER THIS ACT;

2 “(II) THE RIGHT HOLDER IS NOT ENTITLED TO PROTECTION
3 UNDER THIS ACT; OR

4 “(III) WHERE THE APPLICATION FOR REGISTRATION OF THE
5 LAYOUT-DESIGN, WAS NOT FILED WITHIN TWO (2) YEARS FROM ITS
6 FIRST COMMERCIAL EXPLOITATION ANYWHERE IN THE WORLD.

7 “WHERE THE GROUNDS FOR CANCELLATION ARE ESTABLISHED
8 WITH RESPECT ONLY TO A PART OF THE LAYOUT-DESIGN, ONLY THE
9 CORRESPONDING PART OF THE REGISTRATION SHALL BE CANCELLED.

10 “ANY CANCELLED LAYOUT-DESIGN REGISTRATION OR PART
11 THEREOF, SHALL BE REGARDED AS NULL AND VOID FROM THE
12 BEGINNING AND MAY BE EXPUNGED FROM THE RECORDS OF THE
13 INTELLECTUAL PROPERTY OFFICE. REFERENCE TO ALL CANCELLED
14 LAYOUT-DESIGN REGISTRATION SHALL BE PUBLISHED IN THE *IPO*
15 *GAZETTE*.”

16 SEC. 2. *Implementing Rules and Regulations.* – The Intellectual
17 Property Office may issue regulations prescribing details for the
18 implementation of this law. The regulations may, in particular, provide for
19 the payment of fees in connection with applications for the registration of
20 layout-designs of integrated circuits and matters related thereto, including
21 administrative instructions relating to the procedures and other functions of
22 the responsible unit duly designated by the Director General.

1 SEC. 3. *Applicability.* – The provisions of this Act shall apply to
2 layout-designs of integrated circuits that were commercially exploited
3 anywhere in the world from and after January 1998 provided they meet the
4 conditions for protection under this Act.

5 SEC. 4. *Repealing Clause.* – All acts and parts of acts inconsistent
6 herewith are hereby repealed or amended accordingly.

7 SEC. 5. *Separability Clause.* – If any provision of this Act or the
8 application of such provision to any circumstance is held invalid, the
9 remainder of this Act shall not be affected thereby.

10 SEC. 6. *Effectivity.* – This Act shall take effect fifteen (15) days
11 after its publication in two (2) newspapers of general circulation.

Approved,

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