

OFFICE ORDER NO. 19

Series of 2002

LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS REGULATIONS

Whereas, Republic Act (R.A.) No. 9150 entitled "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", a consolidation of Senate Bill No. 1989 and House Bill No. 9827, was passed by the Senate and by the House Representatives on 05 June 2001 and 31 May 2001, respectively;

Whereas, R. A. No. 9150 was approved and signed into law by the President of the Republic of the Philippines on 06 August 2001;

Now, therefore, pursuant to Section 2 of R. A. No. 9150, the following regulations are hereby promulgated:

PART 1

General Provisions

Rule 100. Short Title. - These Regulations shall be referred to as the "Layout-Design Regulations".

Rule 101. Definitions. Unless otherwise specified, the following terms as used in these Regulations shall have the meanings provided in this Rule.

- (a) "Bureau" refers to the Bureau of Patents;
- (b) "Director" refers to the Director of the Bureau of Patents;
- (c) "Director General" refers to the head of the Intellectual Property Office;
- (d) "Integrated Circuit" means a product, in its final form, or an 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 and/or on a piece of material, and which is intended to perform an electronic function (Sec. 112 [2], R. A. No. 8293, as amended);
- (e) "Layout Design" is synonymous with "Topography", and 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 a three-dimensional disposition prepared for an integrated circuit intended for manufacture. (Sec. 112 [3], R.A. No. 8293, as amended)
- (f) "Original layout-design" means a layout-design that is the result of its creator's own intellectual effort and is not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of its creation.(Sec. 113.3, R.A. No. 8293, as amended)

Rule 102. Requisites for Registrability.- In order to be registrable, a layout-design of integrated circuits must be original. A layout-design consisting of a combination of elements

and interconnections that are commonplace shall be registered only if the combination, taken as a whole, is original.(Sec. 113.4, R.A. No. 8293, as amended)

Rule 103. Right to Registration. - The right of registration of layout-design belongs to the creator, his/her heirs or assigns, subject to the following:

(a) When two (2) or more persons have jointly created a layout-design, the right to the registration thereof shall belong to them jointly;

(b) In case the layout-design was created pursuant to a commission, the person who commissions the work shall own the registration, unless otherwise provided in the contract; and

(c) In case the employee created the layout-design in the course of his/her employment contract, the registration shall belong to:

(i) The employee, if the activity is not part of his/her regular duties even if the employee uses the time, facilities and materials of the employer; or

(ii) The employer, if the layout-design is the result of the performance of his/her regularly-assigned duties, unless there is an agreement, express or implied, to the contrary. (Secs.119.3, 28 and 29, R.A. No. 8293, as amended)

Rule 104. First to File Rule.- If two (2) or more persons have made the same layout-design separately and independently of each other, the right to the registration shall belong to the person who filed an application for such layout-design, or where two or more applications are filed for the same layout-design, to the applicant who has the earliest filing date. The right to registration of the first filer, shall be subject, however, to the limitations on layout rights as provided under Section 119.5 of R.A. No. 8293, as amended and the resolution in an appropriate proceeding of the issue of originality.

Where two or more applications for the same layout-design created separately and independently of each other have the same filing date, the registration shall be issued jointly to the applicants of all such applications. (Secs.119.3 and 29, R.A. No. 8293, as amended)

PART 2

Request For Registration

Rule 200. Where to File the Request. -The request for registration of layout-designs shall be in the prescribed application form and shall be filed with the Bureau of Patents of the Intellectual Property Office (IPO). (Sec. 8.2, R.A. No. 8293, as amended)

Rule 201. Who May File the Application . - Any person, natural or juridical, may file the application for registration of layout-design, in the name of the actual creator(s) or of his/her heirs, legal representative or assigns. If the applicant dies, becomes insane or incapacitated, the legally appointed administrator, executor, guardian, conservator, or representative of the applicant, may sign the application papers and other documents, and apply for and obtain the certification of registration in the name of the applicant, his/her heirs or assignee.

In case the whole interest in the layout-design is assigned, the application may be filed by or in the name of the assignee who may sign the application. In case the assignee is a juridical person, any officer thereof may sign the application in behalf of the said person. In case of an aliquot portion or undivided interest, any of the joint owners will sign the application.

Rule 202. Appointment of Resident Agent or Representative.- An applicant who is not a resident of the Philippines must appoint and maintain a resident agent or representative in the Philippines upon whom notice or process for judicial or administrative procedure relating to the application for registration or the registration itself may be served subject to the following:

(a) If there are two or more persons appointed by the applicant, the Bureau or the IPO shall forward all actions to the last agent appointed. A substitute or associate attorney may be appointed by an attorney only upon the written authorization of his/her principal. But a third attorney appointed by the second will not be recognized; and

(b) A power of attorney or authorization may be revoked at any stage in the proceedings of a case upon proper notification to the Director or Director General, and, when revoked, the Bureau or the IPO will notify the attorney or agent of such revocation. For all purposes under this Rule, the notice of the Director or Director General is deemed notice to the applicant. (Secs.119.3 and 33, R.A. No. 8293, as amended)

Rule 203. Contents of the Application.- An application for registration shall be in Filipino or English and shall contain the following:

(a) A request for registration of the layout-design (Sec. 114.1[a], R.A. No. 8293, as amended);

(b) Information identifying the applicant (Sec. 114.1[b], R.A. No. 8293, as amended);

(c) An indication of the kind of article of manufacture to which the layout-design shall be applied (Sec. 114.1[c], R.A. No. 8293, as amended);

(d) Drawings, photographs or adequate graphic representations of the layout-design. (Sec. 114.1[d], R.A. No. 8293, as amended);

(e) The name and address of the creator, or where the applicant is not the creator, a statement indicating the origin of the right to the layout-design registration (Sec. 114.1[e], R.A. No. 8293, as amended);

(f) The date and country where the topography was first commercially exploited, if applicable;

(g) Signature of the applicant or agent.

The applicant may submit other relevant information or data regarding the layout-design including the title thereof, if any.

The application may be accompanied by a specimen of the article embodying the layout-design and shall be subject to the payment of the prescribed fee. (Sec. 114.2, R.A. No. 8293, as amended)

PART 3

Registration

Rule 300. According of Filing Date. - The Bureau shall accord as the filing date of the application the date of its receipt of the fully accomplished prescribed application form together with the filing fee and the drawings, photographs or adequate representations of the layout-design. If the prescribed application form is not fully and properly accomplished and/or the fee is not paid and/or no drawing, photograph or adequate graphic representation of the layout-design is submitted, the filing date shall be the date when the applicant makes the

necessary corrections or completes the said requirements, provided, that the corrections or completion is made within the period prescribed in Rule 301. Otherwise, the application shall be considered withdrawn. (Sec. 116, R.A. No. 8293, as amended)

Rule 301. Time Within Which to Submit Corrections or Completion of Requirements.- The applicant shall have a non-extendable period of one (1) month from notice within which to submit the completed or corrected application form and pay the required fee to the Bureau. If the applicant fails to do so, the application is deemed withdrawn and the Bureau shall immediately notify the applicant to that effect.

Rule 302. Action on the Application; Publication - The Director shall have ten (10) days from filing date of the application within which to refuse the application. If there is no action on the part of the Director within the said period, the application shall be immediately published including the drawings and such other relevant information in the IPO Gazette. (Sec. 117, R.A. No. 8293, as amended)

Rule 303. Adverse Information; Effects. - Within one (1) month from publication of the layout design application, any interested party may furnish the Director any information, evidence or data in writing and under oath, showing that the layout design is not original or that the application was not filed within two (2) years from first commercial exploitation anywhere in the world. The Director may require such third party to submit relevant and collateral facts or data to substantiate the furnished information. Within one (1) month from receipt of the adverse information, the Director shall decide whether or not to register the layout design.

In case the Director refuses or denies the registration of the layout design, the applicant may appeal such decision to the Director General pursuant to Section 7.1 (b) of R.A. No. 8293, as amended, and Part 5 of these Regulations.

In case the Director allows the registration, any interested party may file a petition for cancellation in accordance with Rule 402 of these Regulations.

If the Director receives no adverse information within the one (1)-month period, he/she shall certify to that effect and direct the preparation and issuance of the certificate of registration dated as of the date of publication of the layout design application.

Rule 304. Certificate of Registration.- The Certificate of Registration shall be issued in the name of the Republic of the Philippines under the seal of the IPO and shall be signed by the Director, and registered together with the drawings, if any, and such other relevant data in the books and records of the IPO. The certificate shall always indicate the name(s) and address(es) of the creator(s). (Sec. 117.2, R.A. No. 8293, as amended)

Any interested party may inspect the records and files of the IPO with respect to registration of layout-designs including those of cancellation proceedings. (Sec. 117.5, R.A. No. 8293, as amended)

PART 4

Term of Registration

Rule 400. Term of Registration of Layout Design of Integrated Circuits. - The registration shall be valid for a period of ten (10) years, without renewal, to be counted from the date of

commencement of the protection accorded to the layout-design. The protection of a layout-design shall commence:

(a) On the date of the first commercial exploitation, anywhere in the world, of the layout-design by or with the consent of the right holder; Provided, That an application for registration is filed with the Intellectual Property Office within two (2) years from such date of first commercial exploitation; or

(b) On the filing date accorded the application for the registration of the layout-design if the layout-design has not been previously exploited commercially anywhere in the world. (Sec. 118.5, R.A. No. 8293, as amended)

Rule 401. Change in the Identity of Proprietor; Assignment; Surrender, Amendment; Corrections and other Changes. - Requests for recording in the register of a change in the identity of the proprietor, assignment, surrender, amendment, corrections and other changes in connection with the registration shall be made by accomplishing the prescribed forms and upon payment of fees.

The request shall be under oath and shall be accompanied by proof in support thereof. The IPO may also require such person to submit additional proof to substantiate his claims. If no proof is submitted, the request shall be denied. If the prescribed fees are not paid, the request shall be deemed not filed.

Rule 402. Cancellation.- Upon payment of fees, any interested party may petition that the registration of a layout-design be cancelled on any or all of the following grounds:

- (a) The layout-design is not protectable under the IP Code, as amended;
- (b) The right holder is not entitled to protection under the IP Code, as amended; and/or
- (c) Where the application for registration of the layout-design was not filed within two (2) years from first commercial exploitation anywhere in the world

Where the grounds for cancellation are established with respect only to a part of the layout-design, only the corresponding part of the registration shall be cancelled.

Any cancelled layout-design registration or part thereof, shall be regarded as null and void from the beginning and may be expunged from the records of the IPO. Reference to all cancelled layout-design registration shall be published in the IPO Gazette. (Sec. 120.3, R.A. No. 8293, as amended)

Petitions for cancellation of layout-design registrations on grounds set forth in letters (a) and (b) above, shall be governed by the Regulations on Inter Partes Proceedings. Petitions for cancellation based on letter (c) shall be filed directly with the Director who shall decide whether or not to cancel the registration.

Rule 403. Compulsory Licensing.- A registered layout-design may be the subject of a petition for compulsory licensing and shall be governed by the Regulations on Inter Partes Proceedings. (Sec. 119.3, and Chapter X, R.A. 8293, as amended)

Rule 404. Infringement.- Administrative actions against infringement of protected layout - design shall be governed by the Rules and Regulations on Administrative Complaints for Violation of Laws Involving Intellectual Property Rights.

PART 5

Appeals

Rule 500. Appeal to the Director General.- The decision or order of the Director shall become final and executory thirty (30) days after receipt of a copy thereof by the appellant-applicant unless within the said period, a motion for reconsideration is filed with the Director or an Appeal Memorandum is filed with the Director General and upon payment of the required fee. Appeals to the Director General shall be governed by the Uniform Rules on Appeal.

Only one motion for reconsideration of the decision or order of the Director shall be allowed.

Rule 501. Appeal to the Court of Appeals. - The decision of the Director General shall be final and executory unless an appeal to the Court of Appeals is perfected in accordance with the Rules of Court. No motion for reconsideration of the decision or order of the Director General shall be allowed.

PART 6

Fees

Rule 600. Fees to be Collected by the IPO. - The IPO shall collect the following fees:

Reference

Code

Type of Fee

Php

1001

Filing Fee

5,000.00

1002

For deposit of specimen

1,000.00

1003

Petitions for Cancellation based on letter (c) of Rule 402 of the Layout-Design Regulations

5,000.00

1004

Requests for Voluntary Surrender, Change of Identity of

Proprietor, Amendment, Corrections and other Changes

1,000.00

Other applicable fees prescribed under the IPO Fee Structure are hereby adopted. Any amendment to the IPO Fee Structure shall be deemed incorporated into these Regulations.

Rule 601. Time of Payment.-The filing fee shall be paid upon the filing of the application in accordance with Rule 300. If the filing fee is not paid upon the filing of the application, the same shall be paid within the period prescribed in Rule 301. Otherwise, the application is deemed withdrawn.

All other fees and charges shall be collected by the IPO in advance of services to be rendered.

PART 7

Final Provisions

Rule 700. Correspondence.-The rules on correspondence under Section 1 of the Final Provisions of the Utility Models and Design Regulations shall apply.

Rule 701. Separability.- If any provision in these Regulations or application of such provision to any circumstances is held invalid, the remainder of these Regulations shall not be affected thereby.

Rule 702. Furnishing of Certified Copy.- Ms. Salvacion C. Calaycay, Records Officer III of the IPO, is hereby directed to immediately file three (3) certified copies of these Regulations with the University of the Philippines Law Center, and one (1) certified copy each to the Office of the President, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines, and the National Library.

Rule 703. Effectivity. - These Rules and regulations shall take effect on 15 March 2002 and after publication in the IPO Website and in at least one (1) newspaper of general circulation not later than 28 February 2002.

Done this 26th day of February 2002, Makati City, Republic of the Philippines.

EMMA C. FRANCISCO

Director General