



Registration of Integrated Circuit Designs in Cambodia

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INTRODUCTION

Integrated circuits (popularly known as microchips) are the core components of the information technology industry. They are essential parts of any digital equipment, and have been incorporated into a great variety of other industrial articles, ranging from machine tools to all kinds of household and consumer devices.

Following its obligations as a member of World Intellectual Property Organization and the World Trade Organization, the Cambodian Ministry of Industry, Mines and Energy issued, on 31 January 2011, a Prakas regarding the registration of layout-design of integrated circuits. To date, the Royal Government of Cambodia has yet to promulgate a complete law on integrated circuit registration.

This publication aims to synthesize the legal provisions and the procedures to apply for the protection of the layout-design of integrated circuits. While all the major topics are discussed, the readers are advised to consult the Prakas itself, or ideally, an experienced legal practitioner, before relying on this guide for legal advice.

PROTECTABLE SUBJECT MATTER

The Prakas defines layout design as “a three dimensional disposition 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.”

An integrated circuit is defined as “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 or on a piece of material, and which is intended to perform an electronic function.”

REGISTERING A LAYOUT-DESIGN OF INTEGRATED CIRCUITS

The layout-design of integrated circuits is registered with the Department of Industrial Property of the Ministry of Industry, Mines and Energy. This department also registers patents, utility models, and industrial designs.

The Prakas specifies that certain types of layout-design of integrated circuits can be registered if the design has not been commercially exploited before or was subject of commercial exploitation for a period not exceeding two years in any part of the world.

In addition, the layout-design must be original, meaning that it is a result of its creator’s own intellectual effort, and is not commonplace among creators of designs and manufacturers of integrated circuits at the time of its creation. The Prakas does not further define the term “commonplace.”

The application can be filed by either by the applicant himself or by an agent authorized by law and residing in Cambodia. A separate application must be filed for each design. The application form is in Khmer, whereas the required documents can be submitted in English.

The applicant must submit the following documents:

- application form including the name, address, nationality and residence of each applicant, inventor and/or agent (if any);
- title of the IC,
- commercial exploitation information,
- claim of priority (if any),
- annexes including any photos/drawings and the description of the layout-design of integrated circuits,
- power of attorney (if any),
- information regarding any previous international registration and evidence setting out such registration (including all registration numbers and certified priority documents),
- payment of the official fee.

After the submission, the Registrar can request the applicant to rectify the application and submit corrections within the sixty days. If there is no rectification during that period, the application shall be considered to never have been filed.

The Registrar will publish the application in the industrial property bulletin. Within thirty days of the publication, any interested person can oppose the registration. The Registrar is in charge of informing the applicant of their right to contest the opposition. Failure to contest the opposition is considered as abandonment of the application. If there is no any opposition, the layout-design of the integrated circuits shall be registered.

RIGHTS CONFERRED BY A LAYOUT-DESIGN OF THE INTEGRATED CIRCUITS CERTIFICATE

The owner of the layout-design of the integrated circuits is the inventor or their assignee. This right can be conferred or transferred to a third party. If several persons were involved in the invention, all the inventors shall be granted the rights collectively.

The owner of the layout-design of the integrated circuits certificate has the right to exclude others from:

- reproducing in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality, and
- importing, selling or otherwise distributing for commercial purposes a protected layout-design or any material in which a protected layout-design is incorporated except by authorization from the owner.

INVALIDATION

Any interested person may request a court to invalidate a protected layout-design after its issuance.

The following are the sole grounds for invalidation:

- The layout-design of the integrated circuit has been commercially exploited before in any part of the world and the exploitation exceeds two years, or is not original.
- The owner is not the protected person under the Prakas.

If the invalidation concerns only one part of the layout-design, only the affected part shall be considered invalid. All registered layout-design that are considered invalid in its entirety or any part thereof shall lose their validity from the date of protection commencement.

PROTECTION PERIOD AND ANNUITY

The term of a layout-design of the integrated circuits certificate is ten years from the date of protection commencement, which is either:

- the date of filing if the layout-design has not been commercially exploited anywhere in the world; or
- the date of the initial commercial exploitation if it has been commercially exploited anywhere in the world by the owner or with the authorization from the owner.

An annuity must be paid in advance to the Registrar, starting one year after the filing date of the application. Failure to pay the annuity results in a penalty or lapse of the granted layout-design certificate.