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Law of Patents, Layout Designs of Integrated Circuits, Plant Varieties and Industrial Models

Chapter One General Provisions

Article 1

This Law aims to provide full protection within the Kingdom for inventions, layout designs of integrated circuits, plant varieties and industrial models.

Article 2

The following terms and phrases, wherever mentioned in this Law, shall have the meanings expressed next to them, unless the context requires otherwise:

- **City:** King Abdulaziz City for Science and Technology.
- **Administration:** The General Administration of Patents at King Abdulaziz City for Science and Technology.
- **Subject matter of protection:** Either an invention, a layout design of integrated circuits, a plant variety or an industrial model.
- **Protection document:** The document granted by the City for one of the subject matters of protection. It may either be a patent, a certificate of design, a plant patent, or a certificate of an industrial model.
- **Invention:** An idea developed by the inventor that results in a solution of a certain problem in the field of technology.
- **Integrated circuit:** A product in its final or intermediate form in which the elements, at least one of which is active, and some or all of the interconnections are integrally formed in or on a piece of material, and the purpose of this is to perform an electronic function.
- **Design:** Three dimensional disposition of the elements of an integrated circuit - one of such elements at least shall be active- and of some or all of the interconnections of the integrated circuit, or the three dimensional disposition prepared for an integrated circuit intended for manufacturing.
- **Plant variety:** A plant grouping within a single botanical taxon of the lowest known rank which, irrespective of whether the conditions for the grant of a breeders right are fully met, can be defined by the expression of the characteristics resulting from a given genotype or a combination of genotypes distinguished from any other plant grouping, by the expression of at least one of the said characteristics, and considered as units with regard to its suitability for being propagated without change.

- **Plant breeder:** The person, who breeds, discovers or develops a new plant variety.
- **Industrial model:** A composition of two-dimensional lines or colors, or any three dimensional shape that gives an industrial product, or a product of traditional crafts, a special appearance provided that this is not only for functional or technical purpose including textile designs.
- **Compulsory license:** The permission given to others to exploit the subject matter of protection without the consent of the patentee, in accordance with the provisions of this Law.
- **Contractual license:** A contract under which the patentee grants a third party some or all of his rights to exploit the protection document for a specified period against a specified fee.
- **Bulletin:** The paper issued by the City concerning all that relates to the subject matters of protection in accordance with the provisions of this Law and its Implementing Regulations.
- **Committee:** The committee stipulated in Article Thirty Five of this Law.
- **Table:** The table annexed to this Law which specifies the fees for the works carried out by the Administration in accordance with the provisions of this Law.
- **Applicant:** The person requesting the protection document, as registered in the Administration records.
- **Regulations:** The Implementing Regulations of this Law.

Article 3

The City shall have the authority to apply the provisions of this Law and its Implementing Regulations.

Article 4

- A. The protection document shall not be granted if its commercial exploitation violates the Sharia.
- B. The protection document shall not be granted if its commercial exploitation is harmful to life, to human, animal or plant health, or is substantially harmful to the environment.

Article 5

- A. The protection document shall be a personal right of the person in whose name it was issued. This right may be transferred by inheritance, as well as with or without consideration.
- B. If the subject matter of protection is a joint work of several persons, they shall be equally entitled to the right, unless they have agreed otherwise.
- C. No one shall be deemed a partner unless he contributes to the subject matter of protection and his efforts are only confined to assistance in its execution.

- D. If more than one person has independently developed the same subject matter of protection, the protection document shall be granted to the first applicant.
- E. The person who develops the subject matter of protection shall have the right to state his name in that capacity in the protection document.

Article 6

- A. The employer shall be the patentee, unless the work contract stipulates otherwise, where its subject matter results from the execution of a contract, or an obligation providing for exerting efforts to develop it, or if the employer proves that the employee would not have developed the subject matter of the protection had he not used facilities, means or data made available through his employment.
- B. This shall be without prejudice to the employee's right to receive a special award to be agreed upon with the consent of both parties, or assessed by the Committee in light of the various circumstances of the contract of employment, and the economic importance of the subject matter of the protection. Any special agreement depriving the employee of this right shall be null and void.
- C. An application for a protection document filed by the employee within two years from the date of termination of employment shall be deemed as if submitted during the employment.
- D. The previous provisions shall apply to government employees.
- E. If the subject matter of protection developed relates to national security, it shall be governed by the provisions stipulated in the Implementing Regulations.

Article 7

If the subject matter claimed in the application or in the protection document is derived from a patented subject matter owned by a person other than the applicant or the patentee, then this person may request the Committee to transfer the ownership of the application or protection document to him. The case for the transfer application shall not be heard after the elapse of five years of granting the protection unless the applicant's bad faith is established.

Article 8

The application for granting protection document shall be submitted to the Administration in the prescribed form. The Regulations shall specify the information and documents required to be enclosed with the application. If the applicant is not the party which developed the subject matter of protection, he must state his name and enclose the document proving the transfer of title of the patented subject matter to him, and the Administration may, in this case, send a copy of these documents to the party which developed the subject matter of protection. After satisfying the requirements and payment of the specified fee, the application shall be registered.

Article 9

The applicant may introduce the amendments he deems fit in the application, provided that these amendments shall introduce no change to what was disclosed in the original application.

Article 10

- A. The applicant may benefit from the priority given to a previous application filed during the priority period specified for each of the subject matters of protection, from the filing date of the previous application, provided that it is accompanied by a written declaration stating the date and number of the previous application and the place where it was filed by him or his predecessor. He shall also submit a copy of the previous application approved by the authority where the protection application was submitted, within ninety days from the date of filing the application with the Administration.
- B. The priority period for patents and plant varieties shall be twelve months.
- C. The priority period for the industrial model shall be six months.

Article 11

The Administration shall publish applications for patents on invention and plant varieties within eighteen months from the date of filing the application, after paying the specified fee.

Article 12

The Administration shall examine the registered applications in terms of formalities. If it appears, from the examination, that some of the legally prescribed conditions are not satisfied it may instruct the applicant to satisfy them within a maximum of ninety days from the date of notification. If he did not fulfill what was requested within the said period, his application would be considered as if it had never been filed.

Article 13

Once the application for patent or plant patent has been examined in terms of formalities, it shall be examined in terms of subject matter, in accordance with what is stated in the Regulations.

Article 14

- A. If the Administration finds that the application has satisfied the stipulated conditions, it shall issue a decision granting the protection document. The said decision shall be published in sequence as regard to its issuance by the Administration.
- B. If the Administration finds that the applicant does not qualify for the protection document, it shall issue a decision stating the reasons for the rejection, and the applicant shall be notified thereof.

Article 15

The applicant may withdraw his application at any time unless it has not been finally decided upon. However, such withdrawal shall not give the right to recover the fees paid or any other expense.

Article 16

Any action resulting in the assignment of the protection application or the protection document itself must be in writing, signed by the two parties, and approved by an authority acceptable to the Administration. No transfer of title, relating either to the protection application or the protection document itself shall be effective vis-à-vis a third party, except after filing the change application, paying the required fees, and recording it in the Administration registers.

If several parties participated in filing one protection application or in the ownership of one protection document each one of them may assign his right in the application or the protection document to any of the partners, to all of them, or to a third party. The Administration shall publish the transfer of title in the Bulletin.

Article 17

If the protection document is disposed of to others in accordance with any act of disposition, or the right to exploit it is transferred to others for any reason, the patentee shall inform the party to whom the disposition is made or the party to whom the right of exploitation is officially transferred, of any legal measure taken in connection with the protection document, whether taken by the patentee or by others against him.

Article 18

- A. Annual fees shall be due for the protection application or the protection document – in accordance with the table attached to this Law – which shall be paid at the beginning of each year starting from the year following the application filing date.

If the applicant or the patentee fails to pay it within a maximum period of three months from its due date, he shall be liable to pay double the amount. If he fails to pay after being warned during the three months following the expiration of the first three months, the application or the protection document shall cease to be valid, and this shall be recorded in the Register and published in the Bulletin.

- B. Where the applicant has paid the required fees for three years without being granted the protection document, he may postpone payment of the fees for the following years until the decision to grant the protection document is issued.

Article 19

- A. The patent protection period shall be twenty years from the date of filing the application.
- B. The design certificate protection period shall be ten years from the date of filing the application or ten years from the date of start of its commercial exploitation anywhere in the world. In any case, the protection period may not exceed fifteen years from the date of developing the design.
- C. The plant patent protection period shall be twenty years from the date of filing the application. However, the protection period for trees shall be twenty five years.
- D. The industrial model certificate protection period shall be ten years from the date of filing the application.

Article 20

If a person, in good faith, manufactures a product, utilizes an industrial process, manufactures an integrated circuit with a built-in design or a commodity including such a circuit, exploits a plant variety or makes serious arrangements, before the date of filing the patent application, or the priority application relating to that product or the industrial process, design, plant variety, date of first commercial exploitation of the design anywhere in the world, such a party shall be entitled despite the issuance of the patent to continue to perform these acts without expanding them. This right shall not be assigned or transferred to others except with all parts of the firm or one of them including goodwill.

Article 21

The patentee may grant a contractual license to others to perform all or some of the acts of exploitation stipulated in the special provisions, for each patented subject matter. A license contract shall not be valid vis-à-vis a third party unless the specified fee is paid and it is registered in the records of the Administration. This license shall not deprive the patentee from exploiting the subject matter himself or granting another license for the same patented subject matter, unless the first license contract states otherwise.

Article 22

The Administration may instruct the parties to the license contract to amend it in order to prevent abusing the right in the protection document or any other negative effect on competition or the acquisition of technology and its dissemination.

Article 23

The license gives the licensee the right to perform all acts and enjoy all privileges assigned to the holder of the protection document related to the subject of protection throughout the Kingdom during the whole period of protection, unless it is otherwise stated in the license contract. The licensee shall not assign the rights and privileges licensed to him by the patentee, unless it is expressly stated in the license contract.

Article 24

- A. The City may grant a compulsory license to a third party to exploit an invention covered by the patent or a layout design of an integrated circuit covered by a certificate of design upon an application submitted to it, according to the following:
 1. The application shall be submitted after the elapse of four years from the date of filing the patent application or three years from the date of granting the patent, whichever expires later, without the patentee exploiting his invention or having exploited it in an inadequate fashion, unless he justifies that with a legitimate excuse.
 2. The applicant for the compulsory license must prove that he has exerted -over a reasonable period of time- efforts in order to obtain a contractual license on the basis of reasonable commercial conditions, and for a reasonable financial compensation. However, this provision and the provision of the preceding paragraph do not apply where the applicant is a government body or a person authorized by it, and the aim was to meet public interest - especially security, health, nutrition or the development other vital sectors of the national

- economy- or to meet a state of emergency or other very compelling circumstances, or where the aim thereof was general non-commercial purposes. In the latter case, and upon knowledge of the existence of a patent or a certificate of design, their holder shall be promptly informed.
3. The compulsory license is basically granted to make the invention or design available in the local markets. But this provision does not apply where the aim of the license is to prevent or restrict practices against which a decision or judgment is issued declaring them to be acts of unlawful competition.
 4. The decision granting the license shall specify the scope and term of the license, according to the purpose for which it was granted. The license shall be subject to termination if the conditions for which it was granted cease to exist and their recurrence is not likely, with due regards to the lawful interests of the licensee.
 5. The license shall not be exclusive.
 6. Each application shall be independently decided.
 7. The patentee or the holder of a certificate of a design shall be awarded a fair compensation. The Committee shall determine the amount of the compensation, and the licensee undertakes to pay it.
- B. If the compulsory license is related to a patent of semiconductor technology, the purpose of the license shall be for general non-commercial purposes only or to control acts concerning which a decision or judgment is issued declaring them to be acts of unlawful competition.
- C. If the patent involves a significant technological advance with a considerable economic value, which requires the exploitation of another patent, the City may grant that patentee a compulsory license to exploit the other patent. In such a case the compulsory license shall not be assigned unless the other patent is assigned. The owner of the other patent shall be entitled to a counter license from the compulsory licensee, in accordance with reasonable conditions.

Article 25

- A. The City may grant a compulsory license to a third party to exploit a plant variety patented by a plant patent, upon an application submitted to it in accordance with the following:
1. The compulsory license is necessary to protect public interest.
 2. The applicant for the compulsory license being financially and technically competent.
 3. Failure of the applicant to obtain a license from the owner of the plant at reasonable terms.
 4. The elapse of three years between the date of granting the plant patent and the date of applying for the compulsory license.
 5. The compulsory license shall not be restricted to performing all or some of the acts referred to in Article 56 of this Law to meet the needs of the local market.

6. The patentee shall be awarded a fair compensation. The Committee shall determine the amount of compensation, and the licensee shall undertake to pay it.
- B. The City may instruct the owner of the plant patent to provide the holder of a compulsory license with the required quantity of propagation material for the use of the compulsory license in a reasonable fashion.
- C. In other than exceptional circumstances, the compulsory license shall not be granted for a period less than two years or more than four years. The City may extend the term for additional periods, upon verifying that the grounds for granting the compulsory license still exist.

Article 26

If a compulsory license is granted for a patented subject matter the beneficiary of the compulsory license may not assign it to others, unless the assignment includes all or part of the firm benefiting from the license or its goodwill. The City's approval of the assignment is required; otherwise, it shall be null and void. If the City approves such assignment, the assignee becomes liable for the obligations assumed by the first beneficiary prior to the approval of the assignment.

Article 27

The City may amend the decision to grant the compulsory license if need arises. The patentee or the beneficiary of the compulsory license may request the City to make this amendment if its pre-requisites are fulfilled. The reasons for the decision of the City to amend the license or to reject the request must be stated.

Article 28

The City shall cancel the compulsory license in the following cases:

- A. If the beneficiary of the license fails to exploit it in a way that satisfies the Kingdom's needs, within two years from the grant of the license, renewable for an equal period, if it is proved that there is a legitimate cause.
- B. If the beneficiary of the compulsory license fails to pay the due fees within ninety days from the due date, including the compensations to which the patentee is entitled, as stipulated in the decision granting the license.
- C. If the beneficiary of the compulsory license fails to observe any condition necessary for granting of the license.

Article 29

The beneficiary of the compulsory license may relinquish the license by a written request to the City. However, the relinquishment becomes effective from the date of approval of the City.

Article 30

Decisions of compulsory license, its amendment, withdrawal, transference to others and relinquishment shall be entered in the records of the Administration, published in the Bulletin and notified to the patentee.

Article 31

The patentee may relinquish it by submitting a written request to the City. The relinquishment may be confined to one or more of the stated elements of protection. However, revocation of the protection document, in case of compulsory license, shall only be accepted with a written consent of the beneficiary of the license, or the proof of the existence of compelling circumstances justifying this revocation. The revocation shall be registered and published in the Bulletin, and it shall not be effective against a third party except from the date of publication.

Article 32

Any party with interest may challenge the decision of granting of a protection document before the Committee, and seek total or partial annulment, relying upon the violation of the stipulated conditions for granting the protection document. The patentee shall include the beneficiary of the license as a party to the lawsuit; otherwise, the latter may interfere on his own. The Committee may order to enter any party with interest, and the Implementing Regulations shall specify the grounds upon which the request for the cancellation of any protection document shall be based.

Article 33

A judgment of total or partial invalidity of the decision granting the protection document renders the decision null and void from the date of issuance, within the scope of what is nullified. However, the decision to nullify the protection document shall not imply a refund of the sums paid for the license to exploit it, unless the licensee proves that what he has gained, as a result of the license, is not equal to what he has paid, in which case he may recover the amount exceeding the gain he received. The decision of annulment of granting the protection document shall be published after its issuance, and shall not be effective vis-à-vis a third party except from the date of publication.

Article 34

Any act of exploitation provided for in the provisions governing each of the patented subject matters, performed by any person in the Kingdom without a written consent of the patentee recorded with the Administration, shall be deemed an infringement on the subject matter of protection. At the request of the patentee, and any party with interest, the Committee shall grant an injunction to prevent the infringement in addition to the necessary damages, and it may impose a fine upon the transgressor not exceeding one hundred thousand riyals. The maximum fine shall be doubled in case of repetition. If the Committee sees that the infringement calls for the punishment of imprisonment, the transgressor shall be referred from the start to the Board of Grievances, and the Committee may take the necessary prompt measures it deems necessary to prevent the damages resulting from the infringement.

The decision issued by the Committee in this case shall be published in the Official Gazette, the Bulletin and two daily newspapers, at the expense of the party against whom the decision is issued. The provision of this article shall be applied, without prejudice, to any harsher punishment provided for in any other law.

Article 35

- A. A committee shall be formed of three law specialists and two technical experts whose grade shall not be lower than grade twelve.
- B. The members shall be nominated by the President of the City.
- C. The formation of the Committee shall be pursuant to a resolution by the Council of Ministers for a term of three years renewable for one time only. The resolution shall appoint one of the law specialists as chairman of the Committee.

Article 36

- A. The Committee shall have jurisdiction over the following:
 - 1. All disputes and appeals against decisions issued in connection with protection documents.
 - 2. Penal lawsuits for violations of the provisions of this Law and its Implementing Regulations.
- B. The litigants shall be notified of the lawsuits filed with the Committee, in accordance with the Implementing Regulations.

Article 37

Decisions of the Committee shall be issued by majority vote, provided that the grounds for the decisions are stated, and their text is read in a public session. The Committee shall not refuse to issue a decision in the lawsuit on the ground that there is no provision to govern the dispute in the Law or the Implementing Regulations. In that case the Committee shall refer to the general rules observed in the Kingdom. An appeal against any decision issued by the Committee may be brought before the Board of Grievances within sixty days from the date of notification of the decision.

Article 38

The Committee may contact the government bodies concerned and request any explanation and information it deems necessary. The City shall provide the Committee with all documents and papers relating to applications or subject matters of protection in dispute, whenever requested to do so by the Committee.

Article 39

The Committee may seek the assistance of different expert bodies for whatever it deems necessary of the technical matters referred to it, and it shall determine the litigants liable for the expenses incurred.

Article 40

Examination of the protection documents and any related information registered with the Administration may be allowed free of charge. Any person may obtain copies therefrom, upon payment of the required fees.

Article 41

Employees of the Administration and members of the Committee shall not disclose technical information relating to the protection applications of which they become cognizant in their capacity to any person, unless such person is officially authorized to receive that information in accordance with the rules applicable in the Kingdom. They shall also not disclose such information to the public, or use it in any way. This undertaking continues after the end of their service.

Employees of the Administration and members of the Committee may not obtain any of the protection documents or deal in any of the rights relating to them during their service and for two years after the end of service.

Article 42

Fees payable under the provisions of this Law shall be determined in accordance with the Table attached hereto, which may be amended by a resolution of the Council of Ministers upon the recommendation of the President of the City.

Chapter Three **Provisions Governing Layout Designs of Integrated Circuits**

Article 49

An application for registration of a design of an integrated circuit may be filed, if the design has not been commercially exploited before or was subject to commercial exploitation for a period not exceeding two years in any part of the world.

Article 50

The certificate of design shall be granted, if the design is original; i.e., it is a result of a mental effort exerted by the designer himself, and was unfamiliar to creators of designs and manufacturers of integrated circuits when it is produced. As to a design that is composed of a set of components and familiar interconnections, it shall be deemed original if all this set is original.

Article 51

The owner of the certificate of design may initiate an action before the Committee against any person who infringes his design by exploiting it without his consent inside the Kingdom. The performance of any of the following acts shall be deemed to be exploitation of the design:

- A. Copying the whole design or any original part of it, whether by merging it into an integrated circuit or by any other means. Acts relating to personal purposes, or scientific purposes such as research, analysis, education or evaluation shall not be deemed to be infringement.
- B. Importation, sale or distribution of the design, or any integrated circuit in which that design is merged. It shall also be deemed to be infringement the performance of any of the acts referred to

in this paragraph in relation to any article containing an integrated circuit, if this circuit contains an unlawfully copied design.

Article 52

The rights conferred by the certificate of design are confined to acts performed for commercial purposes. The owner of the certificate shall not be entitled to exercise his rights in relation to an original design similar to his design, if created by another person independently. These rights do not extend to any other original design invented on the basis of analyzing or evaluating such designs, nor to any integrated circuit in which is the other design merged.

Article 53

Acts mentioned in paragraph B of Article Fifty One shall not be deemed an infringement, if exercised or ordered to be performed by a person who does not know or has no reasonable causes to know - when he obtains the integrated circuit or the article that contains these circuits – that they contain a design illegally copied. He may perform these acts in relation to the quantities in his possession or ordered by him before he receives an express notice that the design is illegally copied. He shall, however, pay the owner of the certificate of design a fair compensations estimated by the Committee on the basis of the licenses granted through contractual negotiation.