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LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUIT ACT OF LIBERIA, 2014

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It is enacted by the Senate and House of Representatives of the Republic of Liberia in
Legislature Assembled:

PART I

PRELIMINARY PROVISIONS

§1.1. Short Title

This Act may be cited as the “Liberia Layout-Design (Topographies) Act”.

§1.2. Purpose

This Act is to provide protection of layout-designs (topographies) of integrated circuits and related matters.

§1.3. Definitions

Unless the context otherwise requires,

“Compulsory License” means an authorization given under this Act to allow a person to exploit a layout design layout designed or registered in Liberia;

“Court” means a court of justice in Liberia;

“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 or on a piece of material and which is intended to perform an electronic function;

“Lay-out design” 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;

“Register” means the Register of Lay-Out Designs (Topographies) of Integrated Circuits established under the Act Establishing the Liberia Intellectual Property Office;

PART II

PROTECTION

§2.1. Subject matter of protection; Registration

- (a) The layout-design of an integrated circuit shall be protected if it is registered pursuant to this Act.
- (b) The layout-design of an integrated circuit may be registered if it is original within the meaning of Section 2.2 of this Act.
- (c) Registration may only be applied for if the layout-design has not yet been commercially exploited, or has been commercially exploited for not more than two years, anywhere in the world before the date of filing in Liberia.
- (d) For the purposes of this Part, “right holder” means the person who is to be regarded as the beneficiary of the protection referred to in Section 2.4 of this Act.

§2.2. Originality

- (a) A layout-design shall be considered to be original if it 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.
- (b) 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 within the meaning of subsection (a).

§2.3. Right to Protection

- (a) The right to layout-design registration shall belong to the creator of the layout-design. It may be assigned or transferred by succession. Where several persons have jointly created a layout-design, the right shall belong to them jointly.
- (b) If two or more persons have made the same invention independently of each other, the person whose application has the earliest filing date or, if priority is claimed, the earliest priority date shall have the right to the layout-design, provided such application is not withdrawn, abandoned or rejected. To this effect, the Director General of the Liberia Intellectual Property Office shall take into account the matter claimed in the respective application.
- (c) The right to a layout design may be assigned, and may be transferred by succession.

(d) Where an invention is made under an employment contract the purpose of which is to invent, the right to the layout design shall belong, in the absence of contractual provisions to the contrary, to the employer. If the economic gains obtained by the employer from the commercial exploitation of that invention rise above the reasonable expectations of gain that the employer had from his employee's inventive output at the time he hired him, the employee shall be entitled to an equitable remuneration.

(e) Where an invention is made by an employee outside an employment contract, but in making that invention the employee used materials, data or know-how of the employer, the right to the layout design shall belong, in the absence of contractual provisions to the contrary, to the employer. The employee shall be entitled to an equitable remuneration equivalent to one third of the economic gains obtained by the employer from the commercial exploitation of the invention.

(f) Any invention claimed in a layout design application filed by a former employee within one year following the expiry of his employment, where the invention falls within the scope of the former employer's main line of business, shall be presumed to have been made during the employment relationship, unless the employee produces evidence to the contrary.

(g) Any anticipated promise or undertaking by the inventor made to his employer to the effect that he will waive any remuneration he is entitled to under this section shall be without legal effect.

(h) The inventor shall be named as such in the layout design, unless he indicates to the Director General in writing that he wishes not to be named. Any promise or undertaking by the inventor made to the effect that he will make such a declaration shall be without legal effect.

(i) If two or more persons have jointly made an invention, the right to the layout-design invention shall belong to them jointly.

§2.4. Effect of Protection

(a) The registration of a layout-design shall have the effect that the following acts shall be unlawful if performed without the authorization of the registered right holder:

(b) reproducing, whether by incorporation in an integrated circuit or otherwise, the protected layout-design in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality referred to in Section 2.2.

(c) Importing, selling or otherwise distributing for commercial purposes the protected layout-design, an integrated circuit in which the protected layout-design is incorporated or an article incorporating such an integrated circuit in so far as it continues to contain an unlawfully reproduced layout-design.

(d) The rights conferred by the registration of a layout-design shall not extend to:

- (e) the reproduction or use of the protected layout-design for private non-commercial purposes;
- (f) the reproduction or use of the protected layout-design for the sole purpose of academic or scientific research or teaching;
- (g) the reproduction or use of the protected layout-design for the sole purpose of evaluation or analysis of the layout-design;
- (h) the incorporation in an integrated circuit of a layout-design created on the basis of such evaluation or analysis and which is itself original in the meaning of Section 2.2 or the performance of any of the acts referred to in subsection (a) in respect of a layout-design so created;
- (i) the performance of any of the acts referred to in subsection (c) where the integrated circuit in which such a layout-design is incorporated, or the article incorporating such an integrated circuit, has been put on the market in Liberia or abroad by the right holder or by a person acting with the right holder's consent or having an economic tie to the right holder; to this effect an economic tie shall exist between two persons where one of them may exercise on the other a decisive influence with respect to the exploitation of the layout-design, or where a third party may exercise such an influence on both persons;
- (j) the performance of any of the acts referred to in subsection (c) in respect of an integrated circuit incorporating an unlawfully reproduced layout-design or any article incorporating such an integrated circuit where the person performing or ordering such an act did not know and had no reasonable ground to know, when acquiring the integrated circuit or the article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design; however, after the time that such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the said acts only with respect to the stock on hand or ordered before such time and shall be liable to pay to the right holder a sum equivalent to a reasonable royalty such as would be payable under a freely negotiated license in respect of such a layout-design;
- (k) the performance of any of the acts referred to in subsection (c) where the act is performed in respect of an identical layout-design which is original and has been created independently by a third party;
- (l) the use of an integrated circuit in which the layout-design is incorporated, or of an article incorporating such an integrated circuit, in the body or gear of aircraft, land vehicles or vessels that temporarily or accidentally enter the jurisdiction of Liberia, or the importation of spare parts or accessories for the purpose of repairing such aircraft, vehicles or vessels.

§2.5. Duration of Protection

The registration of a layout-design shall lapse at the end of whichever of the following periods expires earliest:

(a) ten years counted from the filing date of the application for registration of the layout-design in Liberia, if the layout-design has not been previously exploited commercially anywhere in the world;

(b) ten years counted from the date of the first commercial exploitation of the layout-design anywhere in the world, by or with the consent of the right holder;

(c) fifteen years counted from the date of creation of the layout-design.

§2.6. Application Requirements

(a) An applications for the registration of a layout-design shall be in writing and shall be filed with the Director General's Office. A separate application shall be filed for each layout-design.

(b) The application shall:

(i.) contain a request for registration of the layout-design and a brief and precise designation thereof;

(ii.) indicate the name, address, nationality and, if different from the address, the habitual residence of the applicant;

(iii.) be accompanied by a copy or drawing of the layout-design along with information defining the electronic function which the integrated circuit is intended to perform; however, the application may omit such parts of the copy or drawing that relate to the manner of manufacture of the integrated circuit, provided that the parts submitted are sufficient to allow the identification of the layout-design;

(iv.) specify the date of first commercial exploitation of the layout-design anywhere in the world or indicate that such exploitation has not commenced;

(v.) specify the date of creation of the layout-design;

(vi.) include a statement justifying the applicant's right to the registration under Section 2.3;

(vii.) include proof of payment of the prescribed fee.

(c) The filing date of an application for registration of a layout-design shall be the earliest date on which the application contains at least the following:

- (i.) an express or implicit request that registration of a layout-design is sought;
- (ii.) indications allowing the identity of the applicant to be established or allowing the applicant to be contacted;
- (iii.) a reproduction of the layout-design for which registration is sought.

(d) Where the application does not comply with the requirements of subsection (b), the Director General shall notify the applicant of the defects and invite him to correct them within two months. If the defects are not corrected within the time limit, the application shall be deemed not to have been filed.

(e) With respect to compliance with subsection (c), if the Director General of the Liberia Intellectual Property Office finds that the application did not fulfill, at the time of receipt, the requirements, he shall notify the applicant inviting him to file the required correction within two months from the date of notification. If the correction is made in due time, the filing date shall be the date of receipt of the required correction; otherwise the application shall be treated as if it had not been filed.

(f) If the prescribed fee was not paid at the time of filing, the Director General shall notify the applicant that the application will be deemed not to have been filed unless payment is made within one month from the date of the notification. If the application fee is not paid within that time limit, the application shall be deemed not to have been filed.

§2.7. Registration and Publication

(a) Where the application complies with the requirements of Section 2.6 the Director General shall register the layout-design in the register of layout-designs without examination of the originality of the layout-design, the applicant's entitlement to protection or the facts stated in the application.

(b) The register of layout-designs shall contain the number, title, filing date and, where indicated in the application under § 3.32(2)(c), the date of first commercial exploitation, anywhere in the world, of the layout-design as well as the name and address of the right holder and other prescribed particulars.

(c) Any person may consult the register of layout-designs and obtain extracts therefrom, subject to the payment of the prescribed fee.

(d) The registration of a layout-design shall be published in the prescribed manner.

§2.8. Invalidation

(a) Any interested person may request that the registration of a layout-design be invalidated on the grounds that:

(i.) the object of the registration is not a layout-design as defined in Section 1.3;

(ii.) the layout-design is not protectable under Section 2.1(b); or

(iii.) where the layout-design has been commercially exploited, anywhere in the world, before the filing of the application for registration of the layout-design, the said application was not filed within the time limit referred to in Section 2.1(c).

(b) Where the grounds for invalidation are established with respect only to a part of the layout-design, only the corresponding part of the registration shall be invalidated.

(c) A request for invalidation of the registration of the layout-design on the grounds specified in subsection (1) may be filed with the Director General or with the court. The request shall state the grounds on which it is based.

(d) Any invalidated layout-design, or claim or part of a claim, shall be regarded as null and void from the date of the grant of the lay-out design, and shall be deemed as if it had never been granted. Any limitation shall be deemed to have existed from the applicable filing date. In the event of a dispute over the right to registration of the layout-design registration, the interested person may ask the court to transfer the title to him instead of invalidating it.

(e) Any invalidated layout-design registration, or part thereof, shall be regarded as null and void from the date of the commencement of protection.

(6) The final decision of the court shall be notified to the Director General who shall record it and publish a reference thereto in accordance with the Regulations.

§2.9. Compulsory Licenses

The Director General or the court may grant, upon request, a compulsory license where:

(i) the public interest, in particular, national security or cases of national emergency or other circumstances of extreme urgency, including those involving nutrition or health, so requires; or

(ii) a judicial or administrative body has determined that the manner of exploitation of the lay-out designed invention, by the holder of the lay-out design or

someone acting under his authorization or with his consent, is anti-competitive, and that the exploitation of the invention in accordance with this subsection would remedy such practice; or

(iii) the holder of the lay-out design is abusing his exclusive rights or neglecting to take measures to prevent someone acting under his authorization or with his consent from abusing the exclusive rights conferred by the lay-out design; or

(iv) after the expiration of a period of four years from the date of filing of the lay-out design application or three years from the date of the grant of the lay-out design, whichever period expires last, the lay-out designed invention is not exploited or is insufficiently exploited, by working the invention in Liberia. Notwithstanding this, a compulsory license shall not be issued if the owner of the lay-out design demonstrates that legitimate reasons such as *force majeure* exist which justify the non-exploitation or insufficient exploitation of the lay-out designed invention in Liberia.

(v) the lay-out design owner has refused to grant a voluntary license to a third party on reasonable commercial terms and conditions.

§2.10. Regulations; Administrative Instructions

(a) Regulations shall be issued on lay-out designs by the Director General of the Office to further implement this Act and which shall include general provisions pertaining

(i.) Changes in Ownership;

(ii.) Licenses/compulsory licenses;

(iii.) Correction of errors;

(iv.) Extension of time;

(v.) The register;

(vi.) Official Gazette;

(vii.) Exercise of discretionary powers;

(viii.) Representation;;

(ix.) Competence of the court;

(x.) Appeals.

(b) The Director General of the Office may also issue Administrative Instructions relating to the procedures under Act pertaining to lay-out designs.

PART III

ENFORCEMENT OF RIGHTS AND LEGAL PROCEEDINGS

§ 3.1. Infringement of Layout-Designs

A layout-design (topography) of an integrated circuit protected under this Act shall be infringed by the performance of any act referred to in Section 2.4 of Part II of this Act by a person other than the registered holder of the layout-design (topography) and without the holder's agreement, subject to the limitations and exceptions provided for in Section 2.4.(c).

§ 3.2. Remedies

On the request of the registered holder of the layout-design (topography) of an integrated circuit, or of a licensee if he has requested the holder to institute court proceedings for a specific relief and the holder has refused or failed to do so within ninety days, the court may grant an injunction to prevent infringement or an imminent infringement, award damages and grant any other remedy provided for in the general law or under this Act.

§3.3. Provisional Measures

(a) All provisional remedies under the Civil Procedure Law of Liberia including injunctions shall be applicable to civil proceedings relating to lay-out designs primarily to prevent an infringement from occurring and preserve relevant evidence in regard to the alleged infringement;

(b) Time limitations for action for damages under the Civil Procedure Law of Liberia shall be applicable to lay-out designs.

(c) The aggrieved party's entitlement to compensation shall be pursuant to the Civil Procedure Law of Liberia.

§.3.4 Evidence

(a) Any party to proceedings relating to layout-design infringement shall be governed by the provisions of the Civil Procedure Law relative to evidence including burden of proof, the right to compel production of documents and to designate documents as privileged or confidential.

(b) Any registration issued under this Act of a lay-out design registered on the principal register for lay-out designs and owned by a party to an action shall be admissible in evidence and shall be prima facie

evidence of the validity of the registered lay-out design and of the registration of the lay-out design, of the registrant's ownership of the lay-out design, and of the registrants' exclusive right to use the layout-design.

§3.5. Damages

(a) An aggrieved party to proceedings involving layout design rights may seek and obtain a court order that the infringer pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity, inclusive of expenses such as attorney fees, or an order for the recovery of profits and or payment of pre-established damages where the infringer with reasonable grounds to know engaged in infringing activity.

(b) An order may also be sought and obtained that the infringer to inform the holder of the right of the identity of third persons involved in the production and distribution of the infringing goods or rendering of services and of their channels of distribution, where this would be in proportion to the seriousness of the infringement.

§3.6. Indemnification of Defendant

Any party to lay-out design proceedings who abuses enforcement proceedings may be required by Court order to indemnify the defendant for injury suffered for such an abuse pursuant to the Civil Procedure Law of Liberia.

§3.7. Unfair Competition

Unfair competition legislation in Liberia prohibiting dishonest practices in industrial or commercial matters shall be applicable to lay-out designs.

§3.8. Appeals

(a) An applicant for registration of a mark, party to an opposition proceeding, or applicant for renewal or other infringement proceedings who is dissatisfied with the decision of the Director General may appeal to the courts.

(b) The appeal shall follow the procedure provided under the Civil Procedure Law of the Republic of Liberia.

§3.9. Further Sanctions

When a person has been found liable for infringement under this Act, to create an effective deterrent to further infringement, the infringer may be subjected to a court order for seizure, forfeiture or disposal of the infringing goods and of any materials and instruments the predominant use of which have been in the commission of the infringement.

PART IV

OFFENSES

§4.1 . Unlawful importation

A person is guilty of unlawful importation of lay-out design, which shall constitute a felony of the second degree under the Penal Law of Liberia, who, without the consent of the right holder, knowingly imports for commercial purposes:

- (a) protected a lay-out design; or
- (b) an integrated circuit in which a protected lay-out design is incorporated; or
- (c) an article incorporating such as integrated circuit only in so far as it continues to contain an unlawfully reproduced layout-design.

§4.2 . Unlawful Sale or other distribution

A person is guilty of unlawful sale or distribution of lay-out design, which shall constitute a felony of the second degree under the Penal Law of Liberia, who, without the consent of the right holder, knowingly sells or distributes for commercial purposes:

- (a) A protected lay-out design; or
- (b) an integrated circuit in which a protected lay-out design is incorporated; or
- (c) an article incorporating such as integrated circuit only in so far as it continues to contain an unlawfully reproduced layout-design.

§4.3. Fraud in relation to registers

(a) A person is guilty of the offense of fraud in relation to registers, which shall constitute a felony of the second degree under the Penal Law of Liberia, who:

- (i.) makes or causes to be made a false entry in a register for layout-designs maintained by the Liberia Intellectual Property Office; or

- (ii.) makes or causes to be made a writing falsely purporting to be a copy of an entry in any such register; or
- (iii.) produces or tenders or causes to be produced or tendered as evidence any such entry or copy thereof knowing it to be false.

§4.4. False statement for the purpose of deceiving

(a) A person is guilty of the offense of false statement for the purpose of deceiving or influencing the Director General, the Registrar or other officer of the Liberia Intellectual Property Office, which shall constitute a felony of the second degree, who makes a false statement for the purpose of:

- (i.) deceiving the Director General, the Registrar or any officer in the execution of the provisions of this Act;
- (ii.) procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder; or
- (iii.) makes a false representation knowing it to be false.

§4.5. Falsely representing lay-out design as registered

(a) A person is guilty of falsely representing layout-design as registered, which shall constitute a felony of the second degree, under the Penal Law of Liberia, who:

- (i.) makes a representation with respect to a lay-out design not being a registered lay-out design, to the effect that it is a registered lay-out design;
- (ii.) makes a representation that the registration of a lay-out design gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered in the register, the registration does not give that right;

This Act shall take effect immediately upon publication into Handbills by the Ministry of Foreign Affairs.

ANY LAW TO THE CONTRARY NOT WITHSTANDING