

**LAW OF UKRAINE
ON PROTECTION OF RIGHTS TO INTEGRATED CIRCUIT DESIGNS**

**November 5, 1997
No.621/97**

as amended by
Laws of Ukraine,
dated 30 June 1999, # 783-XIV,
dated 21 December, # 2188-III,

(In text of the Law, word “Agency” is replaced
with the word “Institution” in applicable cases,
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

This Law shall regulate issues and matters arising out of or in connection with obtaining and exercising rights of ownership (title) to integrated circuits design in Ukraine.

CHAPTER I. GENERAL PROVISIONS

ARTICLE 1. DEFINITIONS

The terms used in this Law shall have the following meanings:

‘Institution’ shall mean a central agency of executive power in charge of legal protection of intellectual property;

(Paragraph 2 of Article 1 as restated by
Law of Ukraine # 2188-III, dated 21 December 2000)

‘Appellate Chamber’ shall mean a body of the Institution that will review objections against decisions of the Institution with regard to the acquisition of rights to intellectual property;

(Paragraph 3 of Article 1 as restated by
Law of Ukraine # 2188-III, dated 21 December 2000)

‘Integrated Circuit (IC)’ shall mean a microelectronic product, in finished or semi-finished form, that is designed to fulfil functions of an electronic circuit, which elements and connections are firmly incorporated into the structure and (or) on the surface of the material that constitutes a base of such product, irrespective of methods of manufacture thereof;

‘Integrated Circuits Design (IC Design)’ shall mean a geometrical disposition of aggregate elements of an integrated circuit and connections between them that is fixed on a physical carrier;

‘Author’ shall mean a natural person who has developed an IC Design;

‘Certificate’ shall mean a document confirming registration by the Institution of the IC Design, and evidencing the exclusive right of ownership to such IC Design;

‘Register’ shall mean the State Register of Ukraine of IC Designs;

‘Registered Integrated Circuits Design’ shall mean an IC Design, the information on which is included into the Register, and for which a certificate has been granted;

‘Person’ shall mean a natural person or a legal entity;

‘Application’ shall mean the totality of documents required to register an IC Design and to issue a certificate;

‘Applicant’ shall mean a person who has filed an application for registration of an IC Design;

‘Date of first use’ shall mean the date on which use of an IC Design became generally known in microelectronics;

‘Employer’ shall mean a person who has employed a worker under an employment agreement (contract);

‘State system of protection of intellectual property’ shall mean the Institution and the entirety of expert, scientific, educational, informational and other respectively specialized state organizations that are under the jurisdiction of the Institution.

(Article 1 supplemented with Paragraph 15
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

‘Expert institution’ shall mean a state organization (enterprise, organization) authorized by the Institution to review and expertly assess applications;

(Article 1 supplemented with Paragraph 16
pursuant to Law of Ukraine # 2188-III, dated 21 December 2000)

ARTICLE 2. AUTHORITIES OF THE INSTITUTION IN THE FIELD OF PROTECTION OF RIGHTS TO IC DESIGNS

1. The Institution shall ensure implementation of state policies in the field of protection of rights to IC Designs in Ukraine, and to that effect shall:

organize receipt of applications and performance of expert examinations thereof, and adopt decisions on such applications;

issue certificates for and register IC Designs;

ensure publication of official information on registered IC Designs;

engage in international cooperation in the field of legal protection of intellectual property and shall represent interests of Ukraine in matters of protection of rights to IC Designs in international organizations pursuant to applicable law;

issue regulatory rules [normative acts] according to the prescribed procedures, within the limits of its authority;

organize informational and publishing activities in the field of legal protection of intellectual property;

organize research concerned with improvements of legislation and the structure of activities in the in the field of legal protection of intellectual property;

organize activities concerned with personnel retraining within the state system of legal protection of intellectual property;

assign institutions within the state system of legal protection of intellectual property to carry out, according to their specialization, certain tasks as are specified by this Law, the Enabling Rules on the Institution, other regulatory rules in the field of legal protection of intellectual property;

discharge other functions pursuant to its Enabling Rules approved in accordance with the prescribed procedure.

2. Activities of the Institution shall be financed with funds of the State Budget of Ukraine.

(Article 2 as restated
by Law of Ukraine # 2188-III, dated 21 December 2000)

ARTICLE 3. RIGHTS AND OBLIGATIONS OF FOREIGN NATIONALS AND STATELESS PERSONS

1. Foreign nationals and stateless persons shall have rights and obligations equal with rights and obligations of Ukrainian citizens as provided by this Law, except those that are specified by international treaties of Ukraine.

2. Foreign nationals and stateless persons who have residence or domicile outside Ukraine shall realize their rights in relations with the Institution through intellectual property representatives.

CHAPTER II. GRANT OF RIGHTS TO IC DESIGNS

ARTICLE 4. CONDITIONS OF PROVISION OF LEGAL PROTECTIONS FOR IC DESIGNS

1. The State shall provide legal protections of and to IC Designs through their registration with the Institution.

Specifics of protection of rights to IC Designs considered as state secrets shall be governed by separate laws.

2. This Law shall not protect rights to ideals, methods, systems, technologies or coded information that may be embodied in an IC Design.

The exclusive right to use an IC Design shall be evidenced by a certificate confirming registration of the IC Design. The certificate shall be effective for 10 years from the date of filing an application with the Institution or from the date of first use of the IC Design, provided that no more than two years have passed from this date until the date of filing an application with the Institution.

The effect of a registration shall be terminated prior to expiration of its term in the event that such registration has been invalidated pursuant to Article 20 of this Law. A state duty shall be paid for registering an IC Design and issuing a certificate.

(Paragraph 2, Point 3 of Article 4 as amended
by Law of Ukraine # 2188-III, dated 21 December 2000)

4. The scope of rights to an IC Design shall be determined by the image of the IC Design on the physical carrier.

ARTICLE 5. CONDITIONS FOR IC DESIGN ELIGIBILITY FOR PROTECTION

1. An IC Design shall meet requirements of eligibility for protection if it is original.

2. The IC design shall be recognized as original, if it has not been developed through a mere reproduction (copying) of other IC Designs, has features granting thereto new properties, and has not been generally known in microelectronics until the date of filing an application with the Institution or until the date of its first use. The IC design shall be recognized as original until the opposite has been proven.

3. The IC Design, which includes elements generally known in microelectronics on the date of filing an application with the Institution or on the date of first use of the IC Design, may be recognized as original only in the event that the aggregate of such elements in general meets the requirements of Point 2 of this Article.

4. Disclosure of information by an author or a person, who has obtained such information from the author directly or indirectly, shall not affect recognition of an IC Design as original, if the period from the date of information disclosure until the date of filing with the Institution an application for registration of this IC Design does not exceed two years. In such case, the burden of proof of circumstances, under which the information was disclosed, and of authenticity of the date of information disclosure and the date of first use of the IC Design shall be borne by the interested person.

5. The IC Design, for which registration the application was filed with the Institution later than two years following the date of first use thereof, may not be recognized as original.

CHAPTER III. THE RIGHT TO REGISTER THE IC DESIGN

ARTICLE 6. RIGHT OF THE AUTHOR

1. The right to register an IC Design shall be vested with an author or his legal successor.

2. Authors who have jointly developed an IC Design shall have equal rights to register the IC Design, unless otherwise provided by an agreement among them.

3. The author of an IC Design shall have the right of authorship, which is an inalienable personal right and shall be perpetually protected.

Persons, who have provided the author solely with technical, organizational or financial assistance in the course of developing an IC Design, or assisted in the completion of documentation to obtain legal protections, but have made no personal creative contribution in the development of the IC Design, shall have no right of authorship.

ARTICLE 7. THE RIGHT OF THE EMPLOYER

1. The right to register an IC Design and all rights arising from such registration shall be vested with the employer of an IC Design's author or its legal successor, if the IC Design has been developed as a result of performance of work duties, or by a special order from the employer, unless otherwise provided by the employment agreement (contract).

2. The author of an IC design made for hire or by a special order from the employer shall provide written notice to the employer of the IC Design developed by him, together with materials reflecting the IC Design in a sufficiently clear and complete manner.

If the employer or its legal successor does not file an application with the Institution within four months following the receipt of such notice or does not take a decision to keep the IC Design as confidential information, whereof it shall notify the author in writing, the right to register the IC Design shall be transferred to the author.

In the event that the employer has exercised its right to register the IC Design or to keep the same as confidential information, the author shall be entitled to a fee based on economic value of the IC Design and any other benefit, which has been derived or could have been derived by the employer or its legal successor.

The fee shall be paid to an author in amounts and under conditions specified by a written agreement between the author and the employer, which agreement shall be concluded within four months upon receipt by the employer of notice.

Disputes arising out of or in connection with conditions of receipt of fees by the author from the employer and fee amounts shall be settled in court.

ARTICLE 8. RIGHT OF THE FIRST APPLICANT

If two or more applications for the same IC Design have been filed with the Institution by different applicants, the right to register the IC Design shall be vested with that applicant, whose application has a more earlier date of filing with the Institution, or, if the date of first use of the IC Design is claimed, a more earlier date of first IC Design use, provided that the above application is not considered to be withdrawn, has not been withdrawn or refused.

CHAPTER IV. PROCEDURES OF REGISTRATION OF IC DESIGNS

ARTICLE 9. APPLICATION FOR REGISTRATION OF THE IC DESIGN

1. A person, who has an intention to register an IC Design and has the right to do so, shall file an application for registration with the Institution. An application for the registration of an IC Design may be filed by two and more persons.

2. An application may be filed, as instructed by an applicant, through an intellectual property representative or other authorized agent. An employee of the Institution and its expert division may not be an authorized agent.

3. An application for the registration of an IC Design must meet the oneness requirement – relate to only one IC Design.

4. An application shall be completed in Ukrainian, and shall include:

an application for registration of an IC Design;

materials that identify the IC Design.

5. For the purpose of identification of an IC Design that has not been used until the date of filing an application with the Institution, the Institution shall be provided with one copy of documents and materials providing full information on the IC Design.

6. For the purpose of identification of the IC Design that has been used prior to the date of filing an application with the Institution, the Institution shall be provided, together with the application, samples of the IC that include such Design in the form as it was introduced into circulation. In such case, the application shall also contain information on the date on which the IC Design was used for the first time, and the documents and materials shall contain the basic technical characteristics of the IC sample.

7. In the event that the filed documents and materials identifying the IC Design contain information on any layer of the IC or its part, which is, in the opinion of the applicant, confidential, then such layer as a whole or the part thereof accordingly may be excluded and included into the documents and materials identifying the IC Design in encoded form.

8. The filed documents and materials identifying the IC Design that have been filed by an applicant and samples of the IC including such Design shall be kept by the Institution for six years following the end of the registration's term. Upon the lapse of this period, the documents and materials identifying the IC and the samples of the IC shall be returned to the holder of the right at his request or, if there is no such request, shall be destroyed.

9. An application for the registration of an IC Design must include the identity of an applicant (applicants) and his (their) address, as well as the identity of an author (authors).

If there are two or more applicants, the application may specify the address of one of them, to which address the certificate is to be sent.

The author shall have the right to require not to be mentioned as such in the Institution's notice.

10. Other requirements for documents of an application shall be determined by the Institution.

11. A document certifying payment of a fee for IC Design registration shall be filed with the Institution together with an application for the registration of the IC Design or within two months of the date of filing such application.

ARTICLE 10. DATE OF FILING AN APPLICATION FOR REGISTRATION OF AN IC DESIGN

1. The date of receipt by the Institution of a properly completed application shall be considered as the date of filing an application for IC Design registration

2. The application shall be deemed to have been properly completed if it complies with the requirements of Points 4-6 of Article 9 of this Law. If the application does not comply with such requirements, the Institution shall notify the applicant thereof.

An applicant shall have three months upon receipt by the applicant of notice from the Institution, within which to make changes to documents and materials contained in the application. If within this period this inconsistency is eliminated, the date of receipt by the Institution of the rectified documents and materials shall be considered as the date of filing an application. Otherwise, the application shall be deemed not to have been filed, whereof the applicant shall be notified.

ARTICLE 11. EXAMINATION OF AN APPLICATION FOR REGISTRATION OF AN IC DESIGN

1. Expert examination of an application shall be carried out by an expert institution in accordance with this Law and rules established by the Institution on the basis of this Law.

In the course of an expert examination, the expert institution shall send notices, inquire and conclusions to the applicant. At that, conclusions of the expert institution shall acquire, upon their ratification by the Institution, the status of decisions of the Institution.

2. After the date of filing an application has been identified, and upon presentation of a document confirming payment of a state duty for IC Design registration, the expert institution shall, within a three-month period, conduct a formal examination of the application, during which it shall determine:

whether the object applied for falls under the objects specified in Point 2 of Article 4 of this Law;

whether an application meets the requirements of Article 9 of this Law;

whether a document confirming payment of a state duty for IC Design registration meets the established requirements.

If, as a result of the formal examination, it has been determined that:

the object applied for does not fall under the objects specified in Point 2 of Article 4 of this Law;

the application meets the requirements of Article 9 of this Law;

the document confirming payment of a state duty for IC Design registration meets the established requirements,

the Institution shall pass a decision to register the applied-for IC Design, whereof the applicant shall be notified.

3. If an application does not meet the requirements of Article 9 of this Law or a document on payment of a state duty does not comply with the established requirements, the applicant shall be notified thereof.

The applicant shall have three months from the date of notice to the applicant, within which to make changes to the documents and materials contained in the application.

If within this period these inconsistencies have not been eliminated, and the applicant does not file a well-grounded request for extension of this period, the applicant shall be sent a decision to deny registration.

In the event that an expert institution has received in a timely manner the rectified (changed) documents, the period of the formal examination of the application shall be extended by three months as of receipt by the expert institution of such documents.

4. If, in the course of a formal examination of the application, it is determined that the object applied for does not fall under the objects that are protected, the Institution shall notify the applicant thereof, and the application shall be deemed to have been refused.

5. In the event of refusal to register an IC Design (refusal of an application), documents provided by an applicant identifying the IC Design and the IC samples including such Design shall be kept for one year from the date of a decision to deny registration. After the lapse of this period, such documents shall be returned to the applicant, at his request, or, if there is no such request, shall be destroyed

6. In the event that conditions of an agreement on the composition of authors have been revised, the applicable documents shall be amended according to the specified procedure, at a joint request of persons, who are actual authors of the given IC Design, but are not mentioned as such in the application.

(Article 11 as restated by
Law of Ukraine # 2188-III, dated 21 December 2000)

ARTICLE 12. REGISTRATION OF AN IC DESIGN

Upon adoption of a decision to register an applied-for IC Design, the Institution shall make a proper entry in the Register.

An IC Design shall be registered subject to an applicant taking responsibility for the IC Design protectibility.

ARTICLE 13. PUBLICATION OF INFORMATION ON REGISTRATIONS

1. The Institution shall publish information on a registered IC Design in its official bulletin.

2. Following publication of official information on the registered IC Design, any person shall have the right to familiarize himself with documents and materials contained in the application in accordance with the procedure as determined by the Institution.

3. In the event that obvious mistakes are founded in the published information, the applicant shall have the right to request the Institution to rectify them.

ARTICLE 14. ISSUANCE OF A CERTIFICATE

1. The Institution shall issue a certificate to an applicant within one month following the registration of an IC design.

If an application has been filed by several applicants, they shall be issued one certificate, which shall be mailed to that applicant whose address is indicated for this purpose in the application and, if there is no such indication, to the first applicant named in the list of the applicants as specified in the application.

2. The form of a certificate and the content of information provided therein shall be specified by the Institution. The text in the certificate shall be set forth in Ukrainian.

3. The Institution shall make corrections of evident mistakes in the issued certificate as requested by its holder, with publication of official information on such corrections.

ARTICLE 15. CHALLENGES OF A DECISION IN RESPECT OF AN APPLICATION

Pursuant to the prescribed procedure, an applicant may challenge any decision of the Institution in respect of an application with the Appellate Chamber within three months from the date of receipt of the decision of the Institution.

(1 of Article 15 as amended by
Law of Ukraine # 2188-III, dated 21 December 2000)

The Appellate Chamber must adjudicate a challenge filed by the applicant against a decision of the Institution within four months from the date of filing the challenge.

Based on results of adjudication of the objection, the Appellate Chamber shall pass a decision that will be approved by order of the Institution and shall be sent to the applicant.

(Article 15 is supplemented with new Paragraph 3 pursuant to
Law of Ukraine # 2188-III, dated 21 December 2000)

Prior to approval of a decision of the Appellate Chamber, within one month from the date of such decision, the Head of the Institution may bring a protest against this decision, which protest shall be considered within one month. The decision of the Appellate Chamber adopted under the protest shall be final and may be cancelled only by the court.

(Article 15 is supplemented with new Paragraph 4 pursuant to
Law of Ukraine # 2188-III, dated 21 December 2000,
in connection therewith,
Paragraphs 3 and 4 should be considered as Paragraphs 5 and 6 respectively)

The applicant may challenge a decision of the Appellate Chamber in court within six months following the receipt of the decision.

A decision of the Institution may be challenged, upon the lapse of three months following the receipt thereof, exclusively in court.

CHAPTER V. RIGHTS AND OBLIGATIONS ARISING FROM IC DESIGN REGISTRATION

ARTICLE 16. RIGHTS ARISING FROM THE IC DESIGN REGISTRATION

1. Rights arising from the registration of an IC Design shall be effective from the date of entry of information on the IC Design in the Register.

2. Registration of an IC Design shall vest the owner of the registered IC Design with an exclusive right to use the IC Design at his own discretion, if such use does not infringe upon rights of other owners of registered IC Designs.

3. Registration shall vest the owner of a registered IC Design with the rights:

- to prevent other persons from using the IC Design without his consent, except for cases when such use is not recognized, pursuant to Article 17 of this Law, as an infringement upon the IC Design owner's rights;

- to transfer, under an agreement, the title to the IC Design to any person who becomes a legal successor of the owner of the registered IC Design;

- to grant any person a permit (license) to use the registered IC Design under a licensing agreement.

The following shall be regarded as use of an IC Design:

copying of the IC Design;

production of the IC with the use of such Design;

production of any goods containing such IC;

importation of such IC and any goods containing such IC into the customs territory of Ukraine;

offering for sale, sale, storage for above purposes and other introducing into circulation of the IC produced as a result of using such IC design, or of any goods containing such IC.

An IC shall be deemed to have been produced with the use of the registered IC Design, if all elements, which render the IC design as original, have been used.

4. Relations in the course of using a registered IC Design, the certificate to which is owned by several persons, shall be determined by an agreement concluded among them.

In the event that there is not such an agreement, any holder of rights to a registered IC Design may use it at his/her own discretion, but none of them shall be entitled to grant a permit (license) for the use of the registered IC Design or transfer the title to the registered IC Design to any other person without the consent of other holders of rights.

5. An agreement for the transfer of title to a registered IC Design and a licensing agreement shall be deemed effective, if they are concluded in writing and signed by the parties.

Transfer of title to an IC Design and issuance of licenses to use the IC Design shall be binding on any person from the date of publication of information thereof in the official bulletin and entry of such information in the Register. Fees shall be paid for entering in the Register the specified information and changes thereto if initiated by parties to the agreement.

(Point 5 of Article 16 as restated by
Law of Ukraine # 2188-III, dated 21 December 2000)

6. Rights that arise from the registration of an IC Design shall not affect any other property or non-property rights of the IC Design author.

7. The holder of rights to a registered IC Design or his successor shall be entitled to notify of IC Design registration by way of marking the Design or goods containing such Design with a bold capital letter "T", with indication

of the date of entry into force of the exclusive right to use the IC Design and of information enabling to identify the right holder of the rights.

ARTICLE 17. ACTIONS WHICH ARE NOT CONSIDERED AS INFRINGEMENTS UPON RIGHTS TO THE REGISTERED IC DESIGN

1. Use of a registered IC Design shall not be considered to be an infringement upon rights granted by the registration of the IC Design:

- in a design of, or in the course of operation of, a transport vehicle of a foreign state that is temporarily or occasionally in the waters, air space or within the territory of Ukraine, provided that the registered IC Design is used solely for the purposes of the specified transport vehicle;

- not for commercial purposes;

- for scientific or experimental purposes;

- under force majeure circumstances (acts of God, catastrophes, epidemic, epizootic, etc.).

2. Importation into Ukraine's customs territory, offering for sale, sale, storage for mentioned purposes or otherwise introducing into circulation of an IC, produced with the use of the registered IC Design, and of any goods containing such IC, if they have been purchased in a lawful manner, shall not be considered as an infringement of rights granted by the IC Design registration.

An IC with an registered IC Design and goods containing such IC shall be deemed to have been purchased by any person in a lawful manner, if they, following their production, have been introduced into circulation by the holder of rights to the given registered IC Design or by his permission.

3. Use of an IC by any person, who has acquired the IC and did not know and could not have known that this IC or an article containing it had been produced and introduced into circulation in violation of rights granted by the IC Design registration, shall not be considered as an infringement of rights granted by the IC Design registration. However, after obtaining a relevant notice from the holder of rights, such person must discontinue use of the IC or shall pay him compensation, which amount will be agreed upon by the parties. Disputes as to compensation and compensation payment procedures shall be settled in court.

4. Any person, who has used an IC Design in good faith before the date of filing by an applicant of an application for registration of the IC Design with the Institution or who has made considerable and serious preparations for such use, shall retain the right to prior use of this IC Design.

The right of prior use may be assigned or transferred to another person only together with the enterprise or the business practice or the part of the enterprise or business practice, wherein the applied-for IC Design was used or considerable and serious preparations for such use were made.

ARTICLE 18. OBLIGATIONS OF THE HOLDER OF RIGHTS TO THE REGISTERED IC DESIGN

1. The holder of rights to a registered IC Design shall enjoy the exclusive right arising from the registration in good faith.

If the registered IC Design has not been used in Ukraine for three years since the date of publication of official information on the registration or since the date on which the use of the IC Design was suspended, then any person who, is willing and ready to use the IC design, may bring action in court, seeking the grant to him/her of a permit to use the IC Design, in the event of refusal by the holder of rights to the registered IC Design to conclude a licensing agreement.

If the holder of rights to the registered IC design fails to prove that the IC Design has not been used due to serious reasons, the court may pass a decision to grant a permit to use the registered IC Design to the interested person, indicating the scope of such IC Design use, the term of the permit, and amounts and procedures of fee payments to the holder.

ARTICLE 19. USE OF THE REGISTERED IC DESIGNED WITHOUT THE CONSENT OF THE HOLDER OF RIGHTS THERETO

1. Proceeding from public interests and national security interests, the Cabinet of Ministers of Ukraine may permit use of a registered IC Design without consent of its owner, but subject to the payment of appropriate compensation to the owner.

2. Disputes concerning conditions of granting permits, payment of compensation and compensation amounts shall be settled in court.

CHAPTER VI. INVALIDATION OF IC DESIGN REGISTRATION

ARTICLE 20. INVALIDATION OF IC DESIGN REGISTRATION

1. The registration of an IC Design may be invalidated by the court in the event of:

- non-compliance of the registered IC Design with the requirements of eligibility for protection, as defined in Article 5 of this Law;

- violation of the requirements of Point 2 of Article 24 of this Law.

2. In order to have the registration of an IC Design invalidated, any person may file a request with the Institution, requesting an expert examination of the registered IC Design as to its compliance with the requirements of eligibility for protection. A fee shall be paid for filing such a request.

3. The Institution shall announce of invalidation of the IC Design registration in its official bulletin.

4. The registration of an IC Design, which is invalidated, shall be deemed not to have come into force as of the date of publication of information on the IC Design registration.

(Article 20 as restated
by Law of Ukraine # 2188-III, dated 21 December 2000)

CHAPTER. VII PROTECTION OF RIGHTS

ARTICLE 21. INFRINGEMENT UPON RIGHTS OF THE HOLDER OF RIGHTS TO THE REGISTERED IC DESIGN

1. Any infringement of rights of an owner of an registered IC Design provided in Article 16 of this Law shall be considered to be an infringement violation upon the rights of the owner of the registered IC Design, which will entail liability in accordance with applicable Ukrainian law.

Upon the request of the holder of rights to of a registered IC Design, such infringement must be terminated, and the violator shall be obligated to compensate the holder of the rights for losses incurred. Disputes between the holder of rights to an IC Design and the violator of such rights as to amounts of compensation and compensation payment procedures shall be settled in court.

2. Any person who has acquired a license may require restoration of the infringed rights of the owner of the registered IC Design, unless otherwise provided by the licensing agreement.

3. The court may pass a decision to eliminate or alienate all ICs, as to which it has been found that they were produced in violation of rights to the registered IC Design. This relates also to photo patterns of design balls, technical documentation, other information on a physical carrier, and the means necessary for producing this particular IC.

4. Persons who have rights to a registered IC Design may require:

reimbursement of losses inflicted on them as a result of such infringement, including lost

profits and damages for emotional duress;

garnishment and transfer, for their benefit, of the violator's profits obtained by him in the course of such infringement, instead of reimbursement of losses;

payment of compensation to be determined by the court, instead of reimbursement of losses or garnishment of profits;

destroying or alienation of all ICs produced in violation of rights to the registered IC Design, and photo patterns of design balls, technical documentation, other information on the physical carrier with respect to such Design, and the means necessary for producing this particular IC.

5. In addition to reimbursement of losses and garnishment of profits for the infringement of rights granted by the registration, the court, arbitration court shall impose a fine in the amount of 10 per cent of the total amount adjudged by the court in favor of a plaintiff. Fine amounts shall be transferred to appropriate budgets according to the procedure established by law.

ARTICLE 22. DISPUTES THAT ARE SETTLED IN COURT

1. Disputes arising out of or relating to application of this Law shall be settled by courts and arbitration court according to procedures established by Ukrainian law.

2. The court within the limits of its competence shall consider disputes relating to:

- authorship to an IC Design;
- identification of a holder of rights to a registered IC Design;
- infringement upon property rights of the holder of the certificate to the registered IC Design;
- conclusion and implementation of licensing agreements;
- fees to authors;
- compensation.

Courts shall also consider other disputes arising out of or relating to protections of rights granted by this Law.

CHAPTER VIII. FINAL PROVISIONS (CONCLUSIVE)

ARTICLE 23. STATE DUTIES AND FEES

State duty amounts and procedures of state duty payment for the registration of IC Designs shall be specified by Ukrainian law.

Funds obtained from the payment of state duties for the registration of IC Designs shall be transferred to the State Budget of Ukraine

Amounts of fees provided by this Law, time periods and procedures of their payment shall be specified by the Cabinet of Ministers of Ukraine.

Fees provided for by this Law shall be paid into settlement accounts of institutions authorized by the Institution which are part of the state system of legal protection of intellectual property and fulfill, according to their specialization, certain tasks specified in this Law.

Monies as a result of payment of fees provided by this Law shall be deemed to be special-purpose funds and shall be, by orders of the Institution, used exclusively for ensuring the development

and functioning of the state system of legal protection of intellectual property, specifically for accomplishing tasks specified in this Law and other regulatory and legal acts in the field of intellectual property.

(Article 23 as amended
by Law of Ukraine # 783-XIV, dated 30 June 1999,
as restated
by Law of Ukraine # 2188-III, dated 21 December 2000)

ARTICLE 24. PROTECTION OF RIGHTS TO THE IC DESIGN IN FOREIGN COUNTRIES

1. An author of an IC Design or his legal successor, an employer of an author or its legal successor shall have the right to register the IC Design in foreign countries. Protection in foreign countries of rights to IC Designs developed in Ukraine shall be provided pursuant to international agreements and treaties of Ukraine and the laws of foreign countries.

2. Prior to filing an application for protection of rights to an IC Design with a body of a foreign country, an applicant must file an application with and notify the Institution of his intention to effect such protection, unless otherwise provided by international agreements and treaties of Ukraine.

3. Expenses relating to obtaining the protection of such rights to an IC Design in foreign countries shall be borne by the applicant or, upon his consent, by some other person.

ARTICLE 25. STATE ENCOURAGEMENT OF DEVELOPMENT AND USE OF IC DESIGNS

The State shall promote the development and use of IC Designs, provide tax benefits and privileged borrowing conditions for authors and persons who use them, and shall grant other privileges in accordance with Ukrainian law.

ARTICLE 26. ENTRY INTO FORCE OF THIS LAW

The Law of Ukraine “On Protection of Rights to Integrated Circuit Designs” shall come into force from the date of publication thereof.

L. Kuchma
President of Ukraine
City of Kyiv

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ON PROTECTION OF RIGHTS TO INTEGRATED CIRCUIT DESIGNS**

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