

DECREE N^o 42/2003/ND-CP of 02 May 2003 OF THE GOVERNMENT

on the Protection of Industrial Property Rights in Layout-Designs of Semiconductor Integrated Circuits

GOVERNMENT

- Pursuant to the Law on the Organisation of Government dated 25 December 2001;
- Pursuant to the Civil Code dated 28 October 1995;
- On the proposal of the Minister of Science and Technology

hereby

DECREES:

**Chapter I
GENERAL PROVISIONS**

Section 1: Scope of Regulation

This Decree stipulates detailed regulations on the protection of industrial property rights in the layout-designs of semiconductor integrated circuits.

Section 2: Applicable Subjects

1. This Decree applies to any Vietnamese legal or natural persons.
2. This Decree also applies to foreign legal or natural persons who are beneficiaries of the protection of industrial property rights in layout-designs of semiconductor integrated circuits under the international treaties to which Vietnam is a party.

In the event that the provisions of the international agreements to which Vietnam is a party contravene the provisions of this Decree, the former shall be applied.

Section 3: Interpretation of Terms

In this Decree the following terms shall be understood as follows:

1. A "semiconductor integrated circuit" means a product, in its final or intermediate form, which is intended to perform an electronic function and in which at least one of the elements is an active element, and in which some or all of the interconnections are integrally formed in and/or on a piece of semiconductor material. "Integrated circuit" is synonymous with "IC", "chip" and "microelectronic circuit";
2. "Layout-design of a semiconductor integrated circuit" means a three-dimensional disposition of circuitry elements and interconnections of such elements in a semiconductor integrated circuit (hereinafter referred to as "layout-design");
3. "Layout-design creator" means the person or persons involved in the creation of a layout-design with his, her or their creative labour.
4. Anyone who provides technical, material or financial assistance and support to the creator without creatively participating in the creation of a layout-design shall not be considered as creator;
5. "Owner" means the person to whom a Protection Title has been granted or to whom industrial property rights in layout-designs have been legally transferred;
6. "Distribution" refers to any form of commercial circulation including selling, renting, assigning, advertising, and offering or storing for such purposes;
7. "Commercial exploitation of a layout-design" means the public distribution of semiconductor integrated circuits manufactured by utilising the layout-design or goods that incorporate such semiconductor integrated circuits.

Section 4: Subject Matter of Protection

1. The subject matter of protection under this Decree is any layout-design that is original.
2. A layout-design shall be considered to be original if it fully satisfies the following conditions:
 - a. It is the result of its creator's own intellectual effort;

- b. It is not widely known among creators of layout-designs or manufacturers of semiconductor integrated circuits at the time of its creation.

Section 5: Subject Matter Excluded From Protection

The following subject matter shall not be protected under this Decree:

1. Principles, processes, systems or methods operated by semiconductor integrated circuits.
2. Information or software contained in semiconductor integrated circuits.

Chapter II ESTABLISHMENT OF INDUSTRIAL PROEPRTY RIGHTS IN LAYOUT DESIGNS

Section 6: The Basis for Establishing Owner's Rights, Layout-Design Creator's Rights;

Industrial property rights in layout-designs of owners and the rights of layout-design creators shall be established on the basis of a Layout-design Protection Title (hereinafter referred to as Protection Title) issued by The National Office of Industrial Property under the Ministry of Science and Technology in accordance with the procedures provided for in this Chapter.

Section 7: Protection Titles

1. A Protection Title is entitled to a "Semiconductor integrated circuits Layout-design Registration Certificate" and has effect throughout the whole territory of the Socialist Republic of Vietnam.
2. The term of validity of a Protection Title begins on the date of granting and expires on the earliest of the following days:
 - a. The end of 10 years counted from the date of the granting of the Protection Title;
 - b. The end of a 10-year period starting from the date of the first commercial exploitation anywhere in the world of the layout-design by the person who has the right to apply for a Protection Title or the person who has obtained this permission;
 - c. The end of a 15-year period starting from the date of creation of the layout-design.
3. The contents of a Protection Title shall be determined by the Decision on its granting as provided for in subsection 1 of Section 14 of this Decree.

Section 8: The Temporary Rights of Owners

Industrial property rights in the layout-designs of owners and the rights of creators shall be protected by the State throughout the validity term of the Protection Titles.

Where the applicant for a Protection Title, or the person who has obtained the applicant's approval, have commercially exploited the layout-design anywhere in the world before the granting of the Protection Title, the applicant shall be entitled to give a third person a notice of this application if that third person has used the layout-design for commercial purposes at any time between the date of the first commercial exploitation and the granting date.

If such a third person continues his use in spite of having been notified, the owner shall, after the granting of the Protection Title, have the right to request that this person pay an amount of money equivalent to the amount payable for licensing the layout-design for a use period running from the date of notice to the date of granting the Protection Title.

Section 9: Applications for a Protection Title

1. An application for a Protection Title shall be a set of documents and materials that express the applicant's request for a Protection Title.
2. Each application shall be a request for a Protection Title for only one layout-design.
3. Documents of applications for Protection Titles and any documents of communication between the applicants and the National Office of Industrial Property shall be made in Vietnamese. Documents in other languages shall be used for comparison, reference or ascertainment only.
4. Applications for Protection Titles shall satisfy formal and substantive requirements according to the regulations of the Minister of Science and Technology.

Section 10: The Right to Apply for a Protection Title

1. The following legal and natural persons shall have the right to apply for a Protection Title:
 - a. A creator who has created the layout-design with his or her own labour and expenses;
 - b. A legal or natural person who has invested funds and/or material facilities to help the creator create the layout-design in the form of commissioned or hired work, unless otherwise agreed in the employment contract or hire contract.
2. A person who has the right to apply for a Protection Title in accordance with subsection 1 of this Section may transfer that right, including the right in an application already filed, to other persons in the form of a written assignment or of an inheritance.
3. Where a layout-design has been created jointly by two or more persons provided for in subsection 1 of this Section, the right to apply for a Protection Title shall belong to all such persons and can only be exercised with the consent of all of them.
4. Where identical layout-designs have been created independently by two or more persons provided for in subsection 1 of this Section, all such persons shall have the right to apply for Protection Titles and if granted, such Protection Titles shall be independently effective.

Section 11: The Time Limit for Exercising the Right to Apply for a Protection Title for Layout-Designs Already Commercially Exploited

With respect to a layout-design that has already been commercially exploited by a person who has the right to apply for a Protection Title or the person who has obtained such a person permission, the time limit for exercising the right to apply for a Protection Title is 2 years from the date on which such commercial exploitation was committed for the first time anywhere in the world.

Section 12: The Exercising of the Right to Apply for a Protection Title

1. In order to be granted a Protection Title, persons who have the right to apply for a Protection Title as provided for in subsection 1 Section 10 of this Decree shall file an application for it with the National Office of Industrial Property. The Protection Title shall be granted by the National Office of Industrial Property on the basis of the result of application examination pursuant to the procedures provided for in this Chapter.
2. Vietnamese legal and natural persons may, directly or through an empowered industrial property representative agency, carry out the filing of an application for a Protection Title and related procedures;
3. Foreign legal and natural persons may carry out the filing of an application for a Protection Title and related procedures as follows:
 - a. Foreign natural persons resident in Vietnam and foreign legal persons who have a legal representative in Vietnam, and foreign natural or legal persons who have an industrial or commercial establishment in Vietnam may, directly or through an empowered industrial property representative agency, carry out the filing of an application for a Protection Title and related procedures;
 - b. Foreign natural and legal persons other than those referred to in item a) may carry out the filing of an application for a Protection Title and related procedures only through an empowered industrial property representative agency.
4. The industrial property representative agencies referred to in subsections 2 and 3 of this Section mean those doing business under provisions of the Government Decree 63/CP of 24 October 1996 on the detailed regulations on industrial property, as amended by the Decree 06/2002/ND-CP of 01 February 2001.
5. The applicant shall guarantee the accuracy of information in relation to the right to apply for a Protection Title, the applicant himself and the creator, as stated in the application. Where a Protection Title is cancelled because the above-mentioned information is not accurate, the owner of the Protection Title shall be responsible for all consequences caused by the inaccuracy.

Section 13: The Examination of an Application for a Protection Title

1. Applications for a Protection Title shall be examined as to their form (this refers to requirements relating to the quantity and formality of the submitted documents) to check whether they satisfy the requirements of a duly filed application.

The subject matter claimed in applications for a Protection Title shall not be examined in respect of protectability criteria provided for in Section 4.
2. Procedures and time limits for the examination of application formality shall be regulated by the Minister of Science and Technology.

Section 14: Grants, Refusals to Grant and the Registration of Protection Titles

1. In cases other than those provided for in subsection 2 of this Section, the Director General of the National Office of Industrial Property shall issue a decision to grant a Protection Title. The Decision to grant a Protection Title shall clearly state the name and address of the person who is granted the Protection Title, the respective application number and filing date, the name of the industrial property agent, the full name of the layout design creator (of co-creators), the designation and classification of the semiconductor integrated circuit manufactured by the utilisation of the protected layout-design, the date of the first commercial exploitation (if stated in the application), the date of creation of the layout-design, the name and number of the Protection Title and the term of protection.
2. The Director General of the National Office of Industrial Property shall issue a notice refusing to grant a Protection Title, the reasons for which shall be clearly stated and shall send the notice to the applicant in the following cases:
 - a. The application for a Protection Title does not meet the requirements provided for in subsection 2, 3 and 4 of Section 9 of this Decree;
 - b. The application was filed by persons who do not have the right to apply;
 - c. The right to apply for a Protection Title belongs to a number of legal or natural persons as provided for in subsection 3 of Section 10 of this Decree, one or more of whom has not agreed to the filing;
 - d. The application for a Protection Title was filed beyond the time limit provided for in Section 11 of this Decree;
 - d') The application for a Protection Title was filed in violation of the filing exercise provided for in subsections 2 and 3 of Section 12 of this Decree;
 - e. The applicant has not paid due fees as prescribed in Section 20 of this Decree.
3. The Protection Title shall be recorded in the National Semiconductor Integrated Circuit Layout-design Registry.
4. The Protection Title shall be sent to the applicant.
If the applicant is a group, the Protection Title shall be sent to the first person in the group's list, and the name of this person shall be recorded in the National Registry. The other members may request a duplicate of the Protection Title from the National Office of Industrial Property pursuant to procedures provided for by the Minister of Science and Technology, and subject to the prescribed fees.

Section 15: Re-issuance of Protection Titles and the Issuance of Copies of Documents

At the request of the owner (or co-owners) of a Protection Title, the National Office of Industrial Property may re-issue a Protection Title (including its duplicate) if it has justifiable reasons.

At the request of legal or natural persons, the National Office of Industrial Property may issue extracts of the National Registry and copies of documents of applications for a Protection Title, except for documents considered secret under the regulations of the Minister of Science and Technology. In respect of documents identifying layout-designs, copies may only be issued to authorities and legal or natural persons who are related to Protection Title invalidation procedures or to a rights infringement litigation.

Legal or natural persons requesting a re-issuance of Protection Titles and the issuance of copies of documents shall pay the prescribed fees.

Section 16: The Termination of the Validity of Protection Titles

1. The validity of a Protection Title shall be terminated in the following cases:
 - a. The owner relinquishes the rights conferred by the Protection Title;
 - b. The owner has died and does not have a legal successor.
2. In the termination cases referred to in item a) subsection 1 of this Section, the validity of the Protection Title shall be terminated from the date the relinquishment is claimed.
In the termination cases referred to in item b) subsection 1 of this Section, the validity of the Protection Title shall be terminated from the time the owner died.
3. The owner shall have the right to file an application requesting that the National Office of Industrial Property terminate the validity of a Protection Title for the reasons referred to in item a) subsection 1 of this Section. Any legal or natural persons shall have the right to file an application requesting that the National Office of Industrial Property terminate the validity of a Protection Title for the reasons referred to in item b) subsection 1 of this Section. The persons requesting a termination of the validity of a Protection Title shall pay prescribed fees.
Based on the result of the consideration of an application requesting a termination of the validity of a Protection Title and the opinions of related parties, the Director General of the National Office of Industrial Property shall issue a decision to terminate the validity of the Protection Title or a notice of refusal to terminate the validity of the Protection Title.

4. Procedures for handling applications that request a termination of the validity of a Protection Title shall be regulated by the Minister of Science and Technology.

Section 17: The Invalidation of Protection Titles

1. A Protection Title shall be entirely invalidated in the following cases:
 - a. The application for the Protection Title falls under the cases provided for in items b), c) and d) of subsection 2 of Section 14 of this Decree;
 - b. The protected layout-design does not meet the criteria for protection provided for in Section 4 or it belongs to the subject matters that are excluded from protection as stipulated in Section 5 of this Decree.
2. The Protection Title shall be invalidated in part if that respective part does not satisfy the criteria for protection.
3. Any legal or natural persons shall have the right to file an application requesting that the National Office of Industrial Property invalidate a Protection Title for the reason that such Protection Title has been granted contrary to the provisions of law, as stated in subsections 1 and 2 of this Section. The persons requesting the invalidation of a Protection Title shall pay prescribed fees.

Based on the result of the consideration of an application requesting an invalidation of a Protection Title, and opinions of related parties, the Director General of the National Office of Industrial Property shall issue a decision to partly or entirely invalidate the Protection Title or a notice of refusal to invalidate the Protection Title.

4. The procedures for handling applications that request an invalidation of a Protection Title shall be regulated by the Minister of Science and Technology.

Section 18: The Appeal of Decisions Related to the Granting, Termination or Invalidation of Protection Titles

1. The right to appeal decisions and notices of the National Office of Industrial Property in relation to the granting, termination or invalidation of a Protection Title is stipulated as follows:
 - a. Appeals of the first instance:
 - An applicant for a Protection Title or a person who files an application requesting the termination of validity or the invalidation of a Protection Title, shall have the right to appeal to the Director General of the National Office of Industrial Property against the notice of refusal to grant a Protection Title or the notice of refusal to terminate the validity of, or invalidate, a Protection Title.
 - Any legal or natural persons whose interests are directly related to the granting, validity termination or invalidation of a Protection Title shall have the right to appeal to the Director General of the National Office of Industrial Property against the decision to grant the Protection Title, or the decision to terminate validity of, or to invalidate, the Protection Title.
 - b. Appeals of the second instance, the initiation of law suits:
 - In cases where the first-instance appeal is not settled within the time limit set forth in subsection 4 of this Section or where there is a disagreement with the response of the Director General of the National Office of Industrial Property, the person who has exercised his right to the first-instance appeal in accordance with the provisions of item a) of this subsection shall have the right either to further appeal to the Minister of Science and Technology (second-instance appeal) or to initiate proceedings at the administrative court.

2. The appeal shall be presented in writing and clearly state the full name and address of the appellant, the number, date and contents of the decision or notice subject to the appeal, the number of the respective application for a Protection Title, the designation of the subject-matter claimed in the application, the contents, reasons and arguments the appeal is based on, and the exact claim with respect to the amendment or invalidation of the decision or conclusion;

3. The grace period for the first instance appeal is 90 days starting from the date the decision or notice referred to in item a) subsection 1 of this Section is received by or communicated to the person entitled to appeal.

The grace period for the second instance appeal is 30 days starting from the expiry date of the time limit for the settlement of appeals provided for in subsection 4 in cases where the appeal is not settled within that time limit, or starting from the date the decision on the settlement of the first instance appeal is received by or communicated to the person entitled to the second instance appeal.

In cases where the right to appeal is not exercised in time due to objective obstacles, the time of such obstacles is not accounted for in the grace period for appeal.

4. The time limits for the settlement of appeals of the first and second instance are 30 and 45 days respectively, starting from the date of acceptance of the appeal. For complicated cases, the time limits can be extended to 45 and 60 days respectively. The time taken by the amendment or supplementation of the appeal dossier is not accounted for in the time limits.

5. Appeals shall be settled by procedures provided for in the Law on Appeal and Denouncement. Appellants shall pay fees for services supplied in the settlement of appeals.

Section 19: Publications

Officially accepted applications for a Protection Title shall be published by being opened for inspection (not for copying) at the National Office of Industrial Property. Access to the documents considered secret under regulations of the Minister of Science and Technology shall be allowed for authorities and parties. Any decisions on the establishment, amendment, termination, invalidation, or transfer of industrial property rights in layout-designs shall be published in the Official Gazette of Industrial Property by the National Office of Industrial Property within 2 months of the issuance date.

Section 20: Fees and Official Fees

1. Legal or natural persons in the establishment, amendment, termination, invalidation, or transfer of industrial property rights in layout-designs, that appeal or make other related procedures before the National Office of Industrial Property or other competent authorities, shall have the obligation to pay to the authorities carrying out the relevant procedures the prescribed fees and official fees.
2. The National Office of Industrial Property or other competent authorities provided for in subsection 1 of this Section have the obligation to collect relevant fees and official fees in the due amount and time and with the due procedures, and shall credit them to the State budget in accordance with current applicable laws and regulations.
The authorities who collect fees and official fees shall be entitled to use a part of the collected fees and official fees in accordance with the laws and regulations on fees and official fees with the aim of encouraging and improving the expertise and skills of staff who directly involved in the work for which the fees are paid.
3. Fees or official fees already collected for work that has not been done because of the lack of a need or because of a mistake made by the relevant competent authority, shall be refunded to the payer and the refunding shall be certified by him or shall be accounted for in a receipt.

Chapter III

THE RIGHTS AND OBLIGATIONS OF THE OWNER AND OF THE LAYOUT CREATOR

Section 21: The Rights of Owners

The owner shall have the following rights:

1. The exclusive right to use the layout-design;
2. The right to transfer the right to use the layout-design;
3. The temporary right provided for in Section 8 of this Decree;
4. The right to transfer or relinquish the ownership right over a layout-design;
5. The right to request actions and to litigate against the infringement of the above mentioned rights.

Section 22: The Exclusive Right to Use a Layout-Design

The exclusive right to use a layout-design of the owner referred to in Section 21 of this Decree refers to the right to perform or prevent other persons from performing for commercial purposes any of the following acts in respect of the protected layout-design:

1. The reproduction of the protected layout-design or the manufacture of a semiconductor integrated circuit by using the protected layout-design;
2. The distribution and importing of a copy of the protected layout-design or a semiconductor integrated circuit manufactured by using the protected layout-design or an article incorporating such a semiconductor integrated circuit.

Section 23: The Transfer of the Right of Use

1. The right of the owner referred to in item b) of subsection 1 of Section 21 of this Decree to transfer the right to use a layout-design refers to the right to permit (license) other persons to perform any of the acts of exclusive right of use of the layout-design provided for in Section 22 of this Decree.

2. If the industrial property rights in the layout-design belong to several owners, no co-owner shall be entitled to transfer his or her respective part of the right unless the other co-owners agree.
3. The transfer of the right to use the layout-design shall be effected through a written contract ("licensing agreement"). The contents of the licensing agreement shall comply with the regulations promulgated by the Minister of Science and Technology and other applicable laws and regulations.
4. Licensing agreements shall be registered with the National Office of Industrial Property in accordance with the regulations of the Minister of Science and Technology. Licensing agreements shall come into effect on the date of registration. The licensee shall have the right to use the layout-design according to the scope, term and conditions provided for in the licensing agreement as registered.
5. Licensing agreements shall be terminated or invalidated ex-officio in cases where the industrial property right in the layout-design of the licensor is terminated or invalidated.

Section 24: The Transfer and Relinquishment of Ownership Rights over Layout-Designs

1. The transfer of ownership rights in layout-designs may be effected in the form of a contractual assignment, an inheritance, or a succession on the basis of an amalgamation, a merger, or a division of legal persons.
2. If the industrial property rights in a layout-design belong to several owners, the transfer shall have to be agreed by all co-owners.
3. Contractual assignments of ownership rights over layout-designs shall be made in a written assignment contract in accordance with the regulations of the Minister of Science and Technology.
4. Any transfer of ownership rights over a layout-design shall be registered with the National Office of Industrial Property in accordance with the regulations of the Minister of Science and Technology.
5. From the date a transfer of ownership rights over a layout-design has been registered with the National Office of Industrial Property, the transferee shall become the owner and will receive all the rights and obligations of the Protection Title from the transferor as well as those rights and obligations between the transferor and a third party which are stated in the assignment contract or transfer document.
6. The owner shall not relinquish ownership rights over a layout-design when subject to a valid license, unless the licensee so agrees. This provision shall not apply to cases where one or a number of co-owners relinquish their respective parts of the right while being succeeded by the remaining co-owners.

Section 25: The Obligation to Pay Remuneration to the Creator

1. If the layout-design creator is not the owner, the latter shall have the obligation to remunerate the former for the creation of the layout-design in accordance with their agreement, or in accordance with the provisions of subsection 2 of this Section unless there is another agreement between them.
2. Unless otherwise agreed between the layout-design creator and the owner, the amount and the due date of remuneration shall be in accordance with the following provisions:
 - a. The minimum level of remuneration for the layout-design creator shall be 5 % of the profit derived each year from the use of the layout-design, or 15% of the total amount of money the owner has received upon granting a license;
 - b. Payment of remuneration to the layout-design creator shall be made no later than 60 days after each year of use or no later than 30 days from the date the owner has received money for the granting of a license.

Section 26: The Rights of Layout-Design Creators

1. The layout-design creator shall have the following rights:
 - a. To be named as the creator in the Protection Title, the National Registry, and in documents published in relation to such layout-designs;
 - b. To receive remuneration from the owner in accordance with Section 25 of this Decree;
 - c. To request action and to litigate against infringements of the above mentioned rights.
2. The layout-design creator's right of remuneration, as referred to in item b) of subsection 1 of this Section, may be transferred, even in the form of inheritance, to other persons in accordance with the law.

Chapter IV

THE PROTECTION OF Industrial property rights in layout-designs

Section 27: Acts of Infringement of Owner's Rights

1. Any act of using a protected layout-design as provided for in Section 22 of this Decree committed within the term of protection without permission of the owner shall be considered as an act of infringement of the

owner's industrial property rights in the layout-design, unless it falls under the exceptions provided for in Section 28 of this Decree.

2. Using a layout-design without paying remuneration in accordance with the provisions of Section 8 of this Decree shall be considered as an act of infringement of the temporary rights of the owner.

Section 28: Acts Not Considered as Infringements of an Owner's Rights

The act of using a protected layout-design in any of the following cases shall not be considered as an infringement of the owner's rights:

1. When the use of the protected layout-design is for non-commercial purposes such as private use, evaluations, analysis, research or teaching;
2. When the distribution and importing of a copy of the protected layout-design or a semiconductor integrated circuit manufactured by using the protected layout-design or an article incorporating such a semiconductor integrated circuit, is carried out without the person performing the act knowing or having any reasonable way of knowing that the layout-design concerned is protected;
3. When the distribution and importing of a copy of the protected layout-design, or a semiconductor integrated circuit manufactured by using the protected layout-design or an article incorporating such a semiconductor integrated circuit, is carried out without the person performing the act knowing or having any reasonable way of knowing that the layout-design concerned is protected, where the act is performed after the person performing such an act has received notice of the protection and paid to the owner a sum of money equivalent to a royalty payable under a licence with respect to the layout-design;
4. When the distribution and importing of a copy of the protected layout-design, a semiconductor integrated circuit manufactured by using the protected layout-design or an article incorporating such a semiconductor integrated circuit, has been carried out and put into market, including the overseas market by the owner or licensee of the layout-design or by the person performing the legitimate use referred to in subsection 3 of this Section;
5. When there is a use of a layout-design which is original and has been created on basis of the kind of analysis or evaluation of the protected layout-design referred to in subsection 1 of this Section, or a layout-design which is identical with the protected layout-design but has been created independently by another person.

Section 30: Acts of Violation of a Creator's Rights

The owner's failure to meet the obligation to pay remuneration to the layout-design creator in accordance with the provisions set out in Section 25 of this Decree, or to guarantee the moral rights of the layout-design creator in accordance with the provisions set out in item a) of subsection 1 of Section 26 of this Decree, shall be considered as violations of the rights of the layout-design creator.

Section 31: The Enforcement of the Rights of Owners and the Rights of Layout-Design Creators

1. The industrial property rights to layout-designs of owners and the rights of layout-design creators shall be protected by the State. Any act of infringement of the rights of owners and the rights of layout-design creators is strictly prohibited.
2. Depending on the nature, extent and consequences of an act of infringement of the industrial property rights in layout-design of owners, and the rights of layout-design creators, the legal or natural person who has performed such act shall be dealt with by administrative procedures or prosecuted by criminal procedures, or shall incur damages according to the laws and regulations.
3. The owners and layout-design creators have the right to request that competent State authorities bring an injunction or press for damages against the person who has performed an act of infringement referred to in Sections 27 and 29 of this Decree.
4. Acts of infringing the industrial property rights to layout-designs of owners, and the rights of layout-design creators shall be dealt with in accordance with the laws and regulations on procedures of handling other industrial property objects.

Chapter V
THE STATE MANAGEMENT OF INDUSTRIAL PROPERTY ACTIVITIES IN RESPECT OF LAYOUT DESIGNS

Section 31: The Application of Decree 63/CP

The activities relating to the protection of industrial property rights in respect of layout-designs fall under the State management of industrial property activities.

The provisions on the contents of the State management of industrial property activities, the responsibility of the State authorities responsible for the management of industrial property activities and the protection of national and social interests as provided for in Government Decree 63/CP of 24 October 1996 on the detailed regulation on industrial property, and as amended by Decree 06/2001/ND-CP of 01 February 2001, shall also apply to the activities of the protection of industrial property rights in respect of layout-designs.

Section 32: The Responsibilities of Ministries and Localities

1. The Ministry of Science and Technology shall be responsible for stipulating the contents and formality of, the filing, receipt and examination procedures for: the applications for a Protection Title; the procedures for appealing against decisions relating to the establishment, termination, invalidation of industrial property rights in layout-designs; and for the procedures for the registration of transfer and licensing contracts and other related procedures.
2. The Ministry of Finance shall co-operate with the Ministry of Science and Technology in stipulating the regime for collecting, crediting, managing and using fees and official fees for the procedures in respect of the protection of industrial property rights in layout-designs.
3. The Ministry of Industry shall co-operate with the Ministry of Science and Technology to stipulate and to organise technical assessments for the procedures for invalidating Protection Titles and the procedures for enforcing industrial property rights in layout-designs.

Chapter VI
FINAL PROVISIONS

Section 33: Transitional Provisions

1. In respect of layout-designs that have already been commercially exploited somewhere no earlier than 2 years and no later than 18 months before the date of entry into force of this Decree, applications for a Protection Title shall be filed within 6 months from that date.
2. In respect of layout-designs that were already in existence before the entry into force of this Decree, the provisions on the owner's right to prevent the use of layout-designs provided for in subsection 2 Section 22 of this Decree shall not apply.
3. With respect to usages committed before the entry into force of this Decree, the provisions on the temporary rights of the owner provided in Section 8 shall not apply.

Section 36: The Coming into Force and Implementation of the Decree

1. This Decree shall come into force 60 days from the date of signing.
2. Ministers, Heads of organisations at the ministerial level, organs under the Government, Chairmen of the People's Committees of provinces or cities directly under the Central Government and the Director General of the National Office of Industrial Property shall be responsible for implementing this Decree.

On behalf of the Government

(Signed)

Prime Minister