

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence-Freedom-Happiness

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No. 42/2003/ND-CP

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*Hanoi, May 02, 2003*

**DECREE**

**On the protection of industrial property rights over semiconductor integrated circuit layout designs**

**THE GOVERNMENT**

Pursuant to the Law on Organization of the Government dated December 25, 2001;  
Pursuant to the Civil Code dated October 28, 1995;  
At the proposal of the Minister of Science and Technology,

**DECREES:**

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.** Scope of regulation

This Decree prescribes in detail the protection of industrial property rights over semiconductor integrated circuit layout designs.

**Article 2.** Subjects of application

1. This Decree applies to all Vietnamese organizations and individuals.
2. This Decree also applies to foreign organizations and individuals enjoying the protection of industrial property rights over semiconductor integrated circuit layout designs according to the provisions of the international treaties which Vietnam has signed or acceded to.

In cases where an international treaty which the Socialist Republic of Vietnam has signed or acceded to contains provisions different from those of this Decree, the provisions of such international treaty shall apply.

**Article 3.** Interpretation of terms

In this Decree, the following terms shall be construed as follows:

1. " Semiconductor integrated circuit" means a product in its final form or intermediate form, in which the elements – at least one of which is an active element, and some or all of interconnections are integrally formed in or on a piece of semiconductor material

and which is intended to perform an electronic function. "Integrated circuit" is synonymous to "IC", "chip" and "microelectronic circuit";

2. "Semiconductor integrated circuit layout design" means a three-dimensional disposition of circuit elements and their interconnections in semiconductor integrated circuits (hereinafter referred to as "layout designs");

3. " Layout design author" means person or persons who create a layout design with their own creative labor.

Persons who merely render technical, material and funding supports and assistance without contributing their creative labor to the creation of layout designs shall not be regarded as authors;

4. " Owner" means subjects those who are granted protection titles or lawfully transferred the industrial property right over layout designs;

5. " Distribution" means all forms of commercial circulation, including sale, lease, transfer, including advertisement, offering or storing for the said purposes;

6. " Exploitation of layout designs for commercial purposes" means the public distribution of semiconductor integrated circuits manufactured according to such layout designs or commodities imbued with semiconductor integrated circuits manufactured according to such layout designs.

#### **Article 4.** Objects to be protected

1. Objects to be protected under this Decree are layout designs of the original nature.

2. Layout designs shall be recognized as of the original nature if they fully meet the following conditions:

a) Such layout designs are the result of their authors' own creative labor;

b) At the time of their creation, such layout designs are not commonplace among layout design creators and integrated circuit manufactures.

#### **Article 5.** Objects not to be protected

The following objects shall not be protected under this Decree:

1. Principles, processes, systems and methods performed by semiconductor integrated circuits.

2. Information and software incorporated in semiconductor integrated circuits.

## **Chapter II**

### **ESTABLISHMENT OF INDUSTRIAL PROPERTY RIGHTS OVER LAYOUT DESIGNS**

**Article 6.** Bases for establishing the rights of owners and the rights of layout design authors

The industrial property rights of owners over layout designs and the rights of layout design authors shall be established under layout design protection titles (hereinafter referred to as protection titles) granted by the National Office of Industrial Property

under the Ministry of Science and Technology according to the provisions in this Chapter.

#### **Article 7.** Protection titles

1. Protection titles are named "certificate of registration of semiconductor integrated circuit layout designs" and valid throughout the territory of the Socialist Republic of Vietnam.
2. The valid duration of a protection title commences on the date of title issuance and ends on the earliest of the following dates:
  - a) The date ending 10 years, as from the date of issuance of the title;
  - b) The date ending 10 years, as from the date the competent persons files the application for a layout design or permits the commercial exploitation thereof for the first time anywhere in the world;
  - c) The date ending 15 years, as from the date of layout design creation.
3. Contents of protection titles are determined under decisions on granting of protection titles prescribed in Clause 1, Article 14 of this Decree.

#### **Article 8.** Temporary right of owners

In cases where layout designs have been commercially exploited by their applicants (or persons authored by the applicants) before the date the protection titles are issued, and such layout designs had been used by the third parties for commercial purposes during the period from the date of commercial exploitation to the date of issuance of the protection titles, the applicants may notify the above-said third parties of their already filed applications.

If the third parties, after being notified, still continue using the layout designs, the layout designs owners, after being granted the protection titles, may request the third parties to pay a compensation equal to the amount paid for the transfer of the right to use such layout designs corresponding to the scope within which they have been used during the period from the date of notice receipt to the date of issuance of the protection titles.

#### **Article 9.** Applications for granting of protection titles

1. An application for a protection title is a collection of documents and samples expressing the applicant's request for the protection title.
2. Each application shall request the granting of protection title for only one layout design.
3. Documents included in the applications for protection titles and all papers for transactions between the applicants and the National Office of Industrial Property shall be made in Vietnamese. Documents in other languages shall only be used for comparison, reference or checking.
4. Applications for protection titles must satisfy the requirements on forms and contents according to the regulations of the Minister of Science and Technology.

#### **Article 10.** The right to file protection title applications

1. The following organizations and individuals have the right to file protection title applications:

- a) Authors who create layout designs with their own labor and expenses;
- b) Organizations and/or individuals that provide funding and material facilities for authors to create layout designs in form of work assignment or job performance hiring, unless otherwise agreed upon in labor contracts or job performance hiring contracts.

2. Persons having the right to file protection title applications, defined in Clause 1 of this Article, shall be entitled to transfer such right as well as the already filed applications to other organizations or individuals in form of written transfers or inheritance.

3. If many organizations and/or individuals that fall under the cases prescribed in Clause 1 of this Article jointly create one layout designs, the right to file applications shall go to all such organizations and/or individuals and such right shall be exercised only when all such organizations and/or individuals so agree.

4. If many organizations and/or individuals that fall under the cases prescribed in Clause 1 of this Article independently create identical layout designs, all such organizations and/or individuals shall have the right to file applications for protection titles and all protection titles (if granted) shall be independently valid.

**Article 11.** The statute of limitations for exercising the right to file applications for protection titles for already commercially exploited layout designs.

For layout designs already exploited for commercial purposes by the persons having the right to file applications for protection titles or persons authorized by the former, the statute of limitations for exercising the right to file applications for granting of protection titles shall be two years as from the date the above-said commercial exploitation commences for the first time anywhere in the world.

**Article 12.** Exercise of the right to file protection title applications

1. To be granted protection titles, organizations and individuals having the right to file applications defined in Clause 1, Article 10 of this Decree shall have to file protection title applications with the National Office of Industrial Property. Protection titles shall be granted by the National Office of Industrial Property on the basis of the results of examination of protection title applications according to the order and procedures prescribed in this Chapter.

2. Vietnamese organizations and individuals may directly file or authorize industrial property representation service organizations to file protection title applications and proceed with relevant procedures.

3. Foreign organizations and individuals shall exercise the right to file protection title applications and proceed with the relevant procedures as follows:

- a) Foreign individuals permanently residing in Vietnam, foreign legal persons having their lawful representatives in Vietnam, foreign individuals or legal persons having their production and business establishments in Vietnam shall directly file or authorize industrial property representation service organizations to file protection title applications and proceed with relevant procedures;

- b) Foreign individuals and legal persons not falling under the cases prescribed at Point a of this Clause shall file protection title applications and proceed with the relevant procedures by authorizing industrial property representation service organizations to carry out them.

4. Organizations providing industrial property representation service mentioned in Clauses 2 and 3 of this Article are those operating under the Government's Decree No. 63/CP dated October 24, 1996 specifying the industrial property, which was amended and supplemented under Decree No. 06/2001/ND-CP dated February 1, 2001.

5. Applicants must ensure the truthfulness of information on the right to file protection title applications, applicants and authors named in the applications. When protection titles are invalidated because the said information is untruthful, the protection title holders shall be held responsible for consequences caused by their dishonestly.

**Article 13.** Examination of protection title applications

1. Protection title applications shall be examined in terms of their formality (examination of the compliance with requirements on quantity and presentation form of documents included in applications) in order to check whether they satisfy the requirements of valid applications or not.

Objects stated in applications shall not be examined in terms of their protectability according to the protection criteria prescribed in Article 4 of this Decree,

2. Procedures and duration for examining the formality of applications for protection titles shall be prescribed by the Minister of Science and Technology.

**Article 14.** Granting, refusal to grant and registration of protection titles

1. The director of the National Office of Industrial Property shall issue decisions on granting of protection titles, except for the cases prescribed in Clause 2 of this Article. The decisions on granting of protection titles must clearly state the names and addresses of protection titles grantees; the serial numbers of protection title applications and the dates of filing applications; the names of industrial property representation service organizations; the full names of layout design authors (or co-authors); the appellations and classification of semiconductor integrated circuits manufactured according to the protected layout designs and the dates of exploitation of layout designs for commercial purposes for the first time (if declared in applications); the dates of layout design creation; the titles and serial numbers of protection titles; protection duration.

2. In the following cases, the director of the National Office of Industrial Property shall issue notices on the refusal to grant protection titles, clearly stating the reasons therefor to the applicants:

a) Protection title applications fail to meet the requirements prescribed in Clause 2, 3 and 4, Article 9 of this Decree;

b) Applications are filed by persons having no right to do so;

c) The right to file protection title applications belongs to many organizations and individuals according to the provisions in Clause 3, Article 10 of this Decree, but one or several of them do not agree to file protection title applications;

d) Protection title applications are filed after the statute of limitations prescribed in Article 11 of this Decree expires;

e) Protection title applications are filed in contravention of the provisions on the exercise of the right to file applications prescribed in Clauses 2 and 3, Article 12 of this Decree;

f) Applicants fail to pay the fee as prescribed in Article 20 of this Decree;

3. Protection titles shall be recorded in the national register on semiconductor integrated circuits layout designs.

4. Protection titles are handed over to applicants.

If applicants are collectives, only the first member on the list of such collectives' members shall be handed the protection titles and names of such members shall be noted in the national register. Other members have the right to request the National Office of Industrial Property to issue copies of protection titles according to the procedures prescribed by the Minister of Science and Technology and shall have to pay a fee for the issuance of protection title copies.

**Article 15.** Re-granting of protection titles, issuance of document copies

At requests of owners (or co-owners), the National Office of Industrial Property shall re-grant protection titles (including protection title copies) when it deems the reasons therefor are plausible.

At the requests of organizations and individuals, the National Office of Industrial Property shall issue excerpts of the national register and copies of documents included in protection title applications, except for documents classified secret according to the regulations of the Minister of Science and Technology. Particularly for documents identifying layout designs, copies thereof shall only be issued to the competent agencies and organizations and individuals related to the procedures for invalidating protection titles or the procedures for handling acts of infringing upon the rights.

Organizations and individuals that request the re-granting of protection titles or issuance of document copies shall have to pay charge and fee therefor according to the regulations.

**Article 16.** Suspension of validity of protection titles

1. Protection titles shall be suspended from validity in the following cases:

- a) Owners announce to waive all the rights they are entitled to under protection titles;
- b) Owners cease to exist with no lawful heir.

2. In case of suspension of validity of protection titles according to the provisions at Point a, Clause 1 of this Article, the validity of protection titles shall be suspended as from the date their owners announce to waive them.

In case of suspension of validity of protection titles according to the provisions at Point b, Clause 1 of this Article, the validity of protection titles shall be suspended as from the date their owners cease to exist.

3. Owners shall have the right to file applications with the National Office of Industrial Property to request the suspension of validity of protection titles for the reason mentioned at Point a, Clause 1 of this Article.

All organizations and individuals shall have the right to file applications with the National Office of Industrial Property to request the suspension of validity of protection titles for the reason mentioned at Point b, Clause 1 of this Article. Requesters of protection title validity suspension shall have to pay the prescribed fee.

Basing himself/herself on the result of examination of requests for protection title validity suspension and opinions of concerned parties, the director of the National Office

of Industrial Property shall issue decisions on suspension of validity of protection titles or notices on rejection of such requests.

4. Procedures and order for handling requests for protection title validity suspension shall be prescribed by the Minister of Science and Technology.

**Article 17.** Cancellation of validity of protection titles

1. Validity of protection titles shall be wholly canceled in the following cases:

a) Protection title applications fall into the cases prescribed at Points b, c and d, Clause 2, Article 14 of this Decree;

b) Protected layout designs fail to meet the protection conditions prescribed in Article 4 or fall within the subjects ineligible for protection according to the provisions in Article 5 of this Decree.

2. Validity of protection titles shall be partially canceled in the cases where certain parts fail to meet the protection criteria.

3. All organizations and individuals shall have the right to file applications to request the National Office of Industrial Property to cancel the protection title validity in the cases prescribed in Clauses 1 and 2 of this Article. Requesters of protection title validity cancellation shall have to pay the prescribed fee.

Basing himself/herself on the result of examination of requests for protection title validity cancellation and opinions of concerned parties, the director of the National Office of Industrial Property shall issue decisions to cancel part or whole of the validity of protection titles or notices on rejection of such requests.

4. Procedures and order for handling requests for protection title validity cancellation shall be prescribed by the Minister of Science and Technology.

**Article 18.** Complaints about decisions related to the granting, suspension or cancellation of validity of protection titles

1. The right to lodge complaints about decisions and notices of the National Office of Industrial Property related to the granting, suspension or cancellation of validity of protection titles is provided for as follows:

a) First-time complaints:

Persons filling applications for protection titles or applications requesting the suspension or cancellation of validity of protection titles may lodge complaints with the director of the National Office of Industrial Property about notices on refusal to grant protection titles or notices on rejection of requests for protection title validity suspension or cancellation.

All organizations and individuals having rights and interests directly related to the granting of protection titles, suspension or cancellation of protection title validity shall have the right to complain about decisions on granting of protection titles, decisions on suspension or cancellation of protection title validity.

b) Second-time complaints, initiation of lawsuits:

If, upon the expiry of the time limit for settling first-time complaints prescribed in Clause 4 of this Article, the complaints remain unsettled, or if disagreeing with the

complaint settlement decisions of the director of the National Office of Industrial Property, the persons who have exercised the right to lodge first-time complaints according to the provisions at Point a of this Clause may lodge complaints with the Minister of Science and Technology (second-time complaints) or initiate lawsuits according to the administrative procedures.

2. Complaints must be made in writing, clearly stating the full names and addresses of complainants; the serial numbers, signing dates and contents of complained decisions or notices; the serial numbers of related protection title applications; the names of to be protected objects stated in applications; contents, arguments and evidences to support complaining arguments; specific requests for amendment to or cancellation of related decisions or conclusions.

3. The statute of limitations for lodging first-time complaints is 90 days as from the date the persons with the complaining right receive or are notified of decisions or notices specified at Point a, Clause 1 of this Article.

The statute of limitations for lodging second-time complaints is 30 days as from the date of expiry of the time limit for setting first-time complaints prescribed in Clause 4 of this Article but such complaints remain unsettled or from the date the persons with the complaining right receive or are notified of decisions on first-time complaint settlement.

In cases where, due to objective obstacles or force majeure circumstances, complainants cannot exercise the complaining right within the statute of limitations, the period when such obstacles or circumstances exist shall not be calculated into the statute of limitations for lodging complaints.

4. The time limit for settling first-time complaints is 30 days, for second-time complaints is 45 days after the date of complaint acceptance. For complicated cases, the time limit for settling first-time complaints may be prolonged to 45 days and for settling second-time complaints to 60 days after the date of complaint acceptance. The duration for modifying or supplementing complaint dossiers shall not be calculated into the above-said time limits.

5. The competence, order and procedures for settling complaints shall comply with the provisions of the legislation on complaints and denunciations. Complainants shall have to pay charges for services on settling industrial property complaints as prescribed.

#### **Article 19.** Publicization

1. All applications for protection titles, which have been recognized valid, shall be publicized in the form accessible for direct reference (no photocopying nor duplication) at the National Office of Industrial Property. For secret information classified under the regulations of the Minister of Science and Technology, only the competent agencies and concerned parties involved in the procedures for canceling validity of protection titles or procedures for handling acts of infringing upon rights may refer to them.

2. All decisions on the establishment, amendment, suspension, cancellation or transfer of industrial property right over layout designs shall be published by the National Office of Industrial Property in the Industrial Property Official Gazette within 60 days after such decisions are issued.

#### **Article 20.** Charges and fees

1. Organizations and individuals carrying out the procedures for establishing, amending, suspending or canceling the validity of protection titles, for transferring industrial property right over layout designs, the procedures for lodging complaints or other relevant procedures at the National Office of Industrial Property or other competent



agencies shall be obliged to pay to the agencies carrying out such procedures the prescribed charges and fees.

2. The National Office of Industrial Property and other competent agencies defined in Clause 1 of this Article are obliged to collect fully, according to schedule and the procedures the relevant charges and fees and shall have to remit them into the State budget according to the provisions of current legislation.

The charge and fee-collecting agencies shall be allowed to use part of the collected fee amount in compliance with the provisions of the legislation on charges and fees in order to raise the professional capability and encourage persons directly performing jobs generating revenue sources.

3. Charge and/or fee amounts already paid for works which have not been performed due to the non occurrence of anticipated circumstances or faults of the agencies obliged to perform such works must be refunded to the charge and/or fee payers, and the reimbursement must be certified by the charge and/or fee payers or evidenced with reimbursement vouchers.

### **Chapter III**

#### **RIGHTS AND OBLIGATIONS OF OWNERS, RIGHTS OF AUTHORS OF LAYOUT DESIGNS**

#### **Article 21.** Rights of owners

Owners have the following rights:

1. To exclusively use their layout designs;
2. To transfer the right to use layout designs;
3. To have the temporary right defined in Article 8 of this Decree;
4. To transfer or waive all industrial property rights over layout designs;
5. To request the handling of, or initiate lawsuits against, infringements of their above-said rights.

#### **Article 22.** Exclusive right to use layout designs

Owners' exclusive right to use layout designs, as defined in Article 21 of this Decree, is the right to perform or forbid other persons from performing any acts specified below toward the protected layout designs for business purposes:

1. Reproducing protected layout designs: manufacturing semiconductor integrated circuits after the protected layout designs;
2. Distributing or importing copies of protected layout designs, semiconductor integrated circuits manufactured after the protected layout designs or commodities containing semiconductor integrated circuits manufactured after the protected layout designs.

#### **Article 23.** Transfer of the right to use layout designs

1. The right to transfer the right to use layout designs of owners defined in Article 21 of this Decree is the right to allow other persons to perform any acts within the exclusive right to use layout designs defined in Article 22 of this Decree.

2. In cases where the industrial property rights over a layout design are under joint-ownership, the transfer of the right to use such layout design by one or several co-owners to other persons must be consented by all other co-owners.

3. The transfer of the right to use layout designs must be expressed in written contracts. Contents of contracts on transfer of the right to use layout designs must comply with the regulations of the Minister of Science and Technology and other relevant provisions of law.

4. Contracts on transfer of the right to use layout designs must be registered at the National Office of Industrial Property according to the regulations of the Minister of Science and Technology. Contracts on transfer of the right to use layout designs shall be valid as from the date of registration. The transferees (receiving parties) may use layout designs within the scope and under the conditions inscribed in the already registered contracts on transfer of the right to use layout designs.

5. Contracts on transfer of the right to use layout designs shall be automatically suspended from validity or invalid when the transferors' industrial property right over the layout designs is suspended or invalidated.

**Article 24.** Transfer or waiver of industrial property rights over layout designs.

1. The transfer of industrial property rights over layout designs shall be effected in form of agreement, bequeathal or removal in case of merger, consolidation, division or separation of legal persons.

2. Where the industrial property rights over layout designs are under joint ownership, the transfer thereof must be consented by all co-owners.

3. Agreements on transfer of the industrial property rights over layout designs must be expressed in written transfer contracts according to the regulations of the Minister of Science and Technology.

4. All forms of transferring the industrial property rights over layout designs must be registered at the National Office of Industrial Property according to the regulations of the Minister of Science and Technology.

5. After the date the transfer of the industrial property rights over layout designs is registered at the National Office of Industrial Property, the transferees shall become owners and receive all the rights and obligations of the transferors which arise from protection titles as well as the rights and obligations of the transferors which arise from transactions with the third parties, provided that this must be inscribed in the transfer contracts or hand-over documents.

6. Owners must not waive the industrial property rights over layout designs when they fail to obtain consents of the transferees of the right to use layout designs and the contracts on transfer of the right to use layout designs are still valid. This provision shall not apply to cases where one or several co-owners waive their right portion, while another or other co-owners continue to own such layout designs.

**Article 25.** The obligation to pay remuneration to layout design authors

1. If authors of layout designs are not their owners, the owners are obliged to pay remuneration to the authors of layout designs for the creation thereof according to the

agreement between them, or under the provisions in Clause 2 of this Article, if they do not otherwise agree.

2. If there exists no other agreement between layout design authors and owners, the remuneration levels and payment time limits shall have to comply with the following provisions:

a) The minimum remuneration level for layout design authors shall be equal to 5% of yields earned in each year of using the layout designs or 15% of the total proceeds received by their owners for each time of transfer of the right to use layout designs;

b) The payment of remuneration to layout design authors must be made within 60 days as from the last day of the 12<sup>th</sup> month of each using year or within 30 days counting from the date the owners receive the payment for the transfer of the right to use layout designs.

#### **Article 26.** Rights of layout design authors

1. layout design authors have the following rights:

a) To have their full names in the authors' capacity inscribed in protection titles, the National Register as well as in documents publicizing layout designs;

b) To receive remuneration from owners according to the provisions of Article 25 of this Decree;

c) To request the handling of, or initiate lawsuits against, the infringement of their above-said rights.

2. The layout design authors' right to receive remuneration provided for at Point b, Clause 1 of this Article may be transferred to other persons, including in the form of bequeathal according to the provisions of law.

### **Chapter IV**

#### **PROTECTION OF INDUSTRIAL PROPERTY RIGHTS OVER LAYOUT DESIGNS**

##### **Article 27.** Acts of infringing upon the owner's rights

1. Within the time limit for layout design protection, all acts of using layout designs prescribed in Article 22 of this Decree without permission of owners and not falling under the cases prescribed in Article 28 of this Decree shall be regarded as acts of infringing upon the owner's industrial property rights over layout designs.

2. The use of layout designs without paying compensations according to the provisions in Article 8 and not falling under the cases prescribed in Article 28 of this Decree shall be regarded as acts of infringing upon the owner's temporary right.

##### **Article 28.** Acts not regarded as infringement upon the owner's rights

The use of layout designs in the following cases shall not be regarded as acts of infringing upon the owner's rights:

1. Using protected layout designs for non-commercial purposes, such as personal use, assessment, analysis, research or teaching;
2. Distributing or importing copies of protected layout designs, semi-conductor integrated circuits manufactured after the protected layout designs or goods containing semiconductor integrated circuits manufactured after the protected layout designs without knowing or having no ground to know that the layout designs are currently protected;
3. Distributing or importing copies of protected layout designs, semi-conductor integrated circuits manufactured after the protected layout designs or goods containing semi-conductor integrated circuits manufactured after the protected layout designs, which have already been received or ordered without knowing or having no ground to know that such layout designs are currently protected, provided that the distributing or importing acts are performed after such layout design protection is known and the users pay to the owners an amount equal to that payable for the transfer of the right to use such layout designs.
4. Distributing or importing copies of protected layout designs, semi-conductor integrated circuits manufactured after the protected layout designs or goods containing semi-conductor integrated circuits manufactured after the protected layout designs, which have been marketed, even overseas, by the owners, use right transferees or lawful users according to the provisions in Clause 3 of this Article;
5. Using layout designs of the original nature, which are created on the basis of analyzing or evaluating protected layout designs according to the provisions in Clause 1 of this Article, or layout designs independently created by other persons but identical to the protected layout designs.

**Article 29.** Acts of infringing upon rights of layout design authors

The owners' failure to perform the obligation to pay remuneration to layout design authors according to the provisions in Article 25 of this Decree and failure to secure rights of layout design authors according to the provisions at Point a, Clause 1, Article 26 of this Decree shall be regarded as the infringement upon the rights of layout design authors.

**Article 30.** Security for the enforcement of the rights of layout design owners and authors

1. Industrial property rights over layout designs of owners and rights of layout design authors are protected by the State. All acts of infringing upon the rights of layout design owners and authors are stringently prohibited.

Depending on the nature, seriousness and consequences of acts of infringing upon industrial property rights over layout designs of owners and rights of layout design authors, organizations and individuals that commit acts of violation shall be administratively handled or examined for penal liability. If damage is caused, they shall have to pay compensations therefor according to the provisions of law.

2. Layout design owners and authors may request competent State agencies to compel persons committing acts of violation in the cases prescribed in Articles 27 and 29 of this Decree to stop their acts of violation and pay compensations for damage.
3. The handling of acts of infringing upon industrial property rights over layout designs of owners and rights of layout design authors shall be effected according to the current law provisions on order and procedures for handling acts of infringing upon rights over other industrial property objects.

## Chapter V

### STATE MANAGEMENT OVER PROTECTION OF INDUSTRIAL PROPERTY RIGHTS OVER LAYOUT DESIGNS

**Article 31.** Contents of State management, responsibility of State agencies competent to manage and protect the national interests and social interests

Activities of protecting industrial property rights related to layout designs fall under the scope of State management over industrial property.

The provisions on contents of State management over industrial property activities, responsibilities of the State agencies competent to manage industrial property, protect national interests and social interests in the Government's Decree No. 63/CP dated October 24, 1996 specifying the industrial property, which was amended and supplemented under the Government's Decree No. 06/2001/ND-CP dated February 1, 2001, shall also apply to activities of protecting industrial property rights over layout designs.

**Article 32.** Responsibilities of the concerned ministries

1. The Ministry of Science and Technology shall have to prescribe the contents and form of, and the procedures for filing, receiving and examining, applications for protection titles; the procedures for suspending or canceling validity of protection titles; the procedures for complaining about decisions related to the establishment, suspension or invalidation of industrial property rights over layout designs; the procedures for registering contracts for use right transfer and the transfer of industrial property rights over layout designs and other relevant procedures.

2. The Ministry of Finance shall assume the prime responsibility and coordinate with the Ministry of Science and Technology in prescribing the regime of collection, remittance, management and use of assorted charges and fees for the procedures related to the protection of industrial property rights over layout designs.

3. The Ministry of Industry shall coordinate with the Ministry of Science and Technology in prescribing and organizing the technical expertise in service of the procedures for canceling protection titles and the procedures for securing the enforcement of industrial property rights over layout designs.

## Chapter VI

### IMPLEMENTATION PROVISIONS

**Article 33.** Transitional clause

1. For layout designs already exploited for commercial purposes anywhere in the world at any time in the period of between 18 months and two years before the effective date of this Decree, the statute of limitations for exercising the right to file applications for protection thereof shall be 6 months as from the effective date of this Decree.

2. Provisions on the owners' right to prevent the use of layout designs in Clause 2, Article 22 of this Decree shall not apply to semi-conductor integrated circuits already available before the effective date of this Decree.

3. Provisions on the owners' temporary rights in Article 8 of this Decree shall not apply to acts of using layout designs performed before the effective date of this Decree

**Article 34.** Effect and implementation responsibilities

1. This Decree takes effect 60 days after its publication in the Official Gazette.

2. The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government, the presidents of the People's Committees of the provinces and centrally-run cities and the director of the National Office of Industrial Property shall have to implement this Decree.

**ON BEHALF OF THE GOVERNMENT**

**PRIME MINISTER**

(Signed and sealed)

**Phan Van Khai**

*(This translation is for reference only)*