
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

TURKEY

The present document reproduces the text¹ of the Draft Law on the Protection of Layout-Designs of Integrated Circuits, as notified by Turkey under Article 63.2 of the Agreement (see document IP/N/1/TUR/2).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A LA
PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

TURQUIE

Le présent document contient le texte¹ du Projet de loi sur la protection des schémas de configuration des circuits intégrés, notifié par la Turquie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TUR/2).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

TURQUÍA

En el presente documento se reproduce el texto¹ del proyecto de Ley de protección de los esquemas de trazado de los circuitos integrados, que Turquía notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TUR/2).

¹ In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

DRAFT LAW
ON
"THE PROTECTION OF LAYOUT-DESIGNS
OF INTEGRATED CIRCUITS"

PART ONE
General Provisions

SECTION ONE
Aim, Scope, Persons Entitled for Protection, Definitions

Aim and Scope

Article 1 - This Law aims hereby, to protect the layout-design of integrated circuits conforming with the provisions of this Law, and to facilitate the formation and development of the industry and of the competitive environment.

This Law encompasses the principles, the rules and conditions for the protection of registered layout-design of integrated circuits. The provisions of this Law shall be without prejudice to the application of some other forms of protection.

Persons Entitled for Protection

Article 2 - The protection conferred by this Law is available to natural and legal persons who are domiciled or who have real and effective industrial or commercial establishments within the territory of the Turkish Republic, or to the persons who have application rights resulting from the terms of relevant international treaties.

Natural or legal persons other than those referred to in the first paragraph of this Article, who are nationals of states which accord legal and de facto protection to the nationals of the Turkish Republic shall enjoy according to the reciprocity principle protection of layout-design of integrated circuits in Turkey.

Definitions;

Article 3- For the purposes of this Law;

- a) "Integrated Circuit" means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform exclusively or together with other functions an electronic function;
- b) "Layout-Design of Integrated Circuit" the three- dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional disposition prepared for an integrated circuit intended for manufacture;
- c) "Institute" means the Turkish Patent Institute assigned with a Decree Law of 544 to implement the rules of this law.

Priority of International Agreements

Article 4 - If there is a contradiction between the provisions of International Agreements and the National Laws of Turkish Republic the provisions of International Agreements shall prevail.

SECTION TWO Conditions of Protection

Subject Matter of Protection

Article 5 - Layout-design of integrated circuits shall be protected with certificate under this law, if and in so far as they are original.

The protection under first paragraph shall not apply to the concepts, processes, systems or techniques on which the topography is based or to any information stored in a microelectronic semiconductor product.

Protection under this Law shall not depend upon whether or not the integrated circuit which incorporates the protected layout-design of integrated circuits is itself incorporated in an article.

Originality

Article 6 - Layout-design of integrated circuits shall be considered to be original if it is the result of its creator's own intellectual effort and is not commonplace among creators of layout-design of integrated circuits and manufacturers of integrated circuits at the time of its creation.

A layout-design of integrated circuits consisting of arrangement of commonplace parts shall be protected in so far as the arrangement is original as a whole.

SECTION THREE Commencement and Term of Protection

Commencement and Term of Protection

Article 7- Protection of a layout-design of integrated circuits under this Law shall commence:

- a) on the date of the first commercial exploitation; anywhere in the world, of the layout-design of integrated circuits by the right holder, provided an application for protection is filed by the right holder with Institute, within the time limit of two years, or;
- b) on the filing date accorded to the application for the registration of the layout-design of integrated circuits filed by the right holder, if the layout-design of

integrated circuits has not been previously exploited commercially anywhere in the world.

Protection of layout-design under this Law shall terminate at the end of the tenth calendar year after the date of commencement of protection.

1.

2. Layout-design protection can no longer be claimed if the layout-design has not been commercially exploited, other than confidentially, or has not been filed with the Institute within 15 years after the day of its first fixation.

3.

PART TWO

Right to Protection, Limitation of Protection

SECTION ONE

Right to Protection, Rights of the Right Holder

Right to Protection

Article 8 - The right to protection of the layout-design of integrated circuit shall apply in favor of the creator of the layout-design of integrated circuits or his legal successor in title.

Where several persons have jointly created a layout-design the right to protection of the layout-design shall belong to them or their legal successor in title jointly, unless a contrary agreement exists among the parties.

Right to Protection under Employment

Article 9 - Where layout-design of integrated circuits are developed by employees in the execution of their duties, the right to protection of the layout-design of integrated circuits shall apply in favor of their employers unless otherwise provided by the contract.

The right to protection of layout-design of integrated circuits shall apply in favor of the employers for layout-design of integrated circuits which were not created in execution of the contract but developed by employers using the information and equipment available at work.

In such cases the employee shall be awarded a compensation the amount of which to be determined on the merits and the significance of the layout-design of integrated circuits. The Court shall judge an appropriate amount for the reward in case the parties cannot agree on the amount.

Right to Protection of University Personnel

Article 10 - As an exception to Article 10, for the layout-design of integrated circuits developed by the teaching staff undertaking scientific work at the faculties and schools of the universities, the layout-design of integrated circuits right shall apply in favor of the teaching staff.

The meaning of the title of teaching staff is to be understood according to the provisions of the Higher Education Law of Turkish Republic.

Where the subject educational body has made available specific equipment and means for the research work having led to layout-design of integrated circuits, the university teaching staff shall notify the educational body, in writing, of the exploitation of the layout-design of integrated circuits and shall upon request of the body, specify the modality of exploitation and the amount of proceeds achieved. Within three months of such written notification, the educational body may demand a reasonable share of the proceeds from the layout-design of integrated circuits. The amount of such share shall however not exceed the expenses supported by the body.

Right to Protection under Contracts other than Employment Contracts

Article 11- Where the layout-design of integrated circuits has been developed in execution of a commission the right to the protection shall apply in favor of to the person who commissioned the work, unless otherwise provided by the contract.

Effect of Protection

Article 12- The protection shall have the effect that the following acts shall be prevented by right holder if performed without the authorization of the right holder:

- a) reproducing, whether by incorporation in an integrated circuit or otherwise, the protected layout-design of integrated circuits in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality referred to in Article 6;
- b) importing, selling or otherwise distributing for commercial purposes the protected layout-design of integrated circuits, an integrated circuit in which the protected layout-design of integrated circuits is incorporated or an article incorporating such an integrated circuit in so far as it continues to contain an unlawfully reproduced layout-design of integrated circuits.

SECTION TWO

Limitation of Protection

Limitation of Protection

Article 13- The effect of protection of a layout-design of integrated circuits under this Law shall not extend to.

- a) reproduction of the protected layout-design of integrated circuits for private purposes or for the sole purpose of evaluation, analysis, research or teaching;
- b) subject to acts in Article 12 of a layout-design which is the result of analysis or evaluation under item (a) and is original within the meaning of article 6;
- c) Importing, selling or otherwise distributing commercial purpose of the layout-design of integrated circuits or integrated circuits where the act is performed in

respect of a protected layout-design of integrated circuits, or in respect of an integrated circuit in which such a layout-design of integrated circuits is incorporated, that has been put on the market by, or with the consent of, the right holder;

- d) the performance of any of the acts referred to in Article 12.1 (b) in respect of an integrated circuit incorporating an unlawfully reproduced layout-design of integrated circuits or any article incorporating such an integrated circuit where the person performing or ordering such an act did not know and had no reasonable ground to know, when acquiring the integrated circuit or the article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design of integrated circuits; however, after the time that such person has received sufficient notice that the layout-design of integrated circuits was unlawfully reproduced, that person may perform any of the said acts only with respect to the stock on hand or ordered before such time and shall be liable to pay to the right holder a sum equivalent to a reasonable royalty such as would be payable under a freely negotiated license in respect of such a layout-design of integrated circuits;
- e) the performance of any of the acts referred to in Article 12.1 (b) where the act is performed in respect of an identical layout-design of integrated circuits which is original and has been created independently by a third party.

PART THREE

Application and Registration

SECTION ONE

Application Conditions

Registration Authority

Article 14 - The body authorised for the registration of layout-design of integrated circuits is the Institute. Applications in respect of layout-design of integrated circuits for which protection is sought shall be filed in writing, a separate application shall be filed for each layout-design.

Application Conditions

Article 15- The application shall contain;

- a) a request for registration of protection which must clearly and concisely designate layout-design of integrated circuit, as explained in Implementing Regulation;
- b) a copy or drawing of the layout-design along with information defining the electronic function which the integrated circuit is intended to perform; however the application may omit such parts of the copy or drawing that relate to the manner of manufacture of the integrated circuit, provided that the parts submitted are sufficient to allow the identification of the layout-design;

- c) specify the date of first commercial exploitation of the layout-design of integrated circuits anywhere in the world or indicate that such exploitation has not commenced;
- d) particulars establishing the right to protection under Article 8, 9,10,11 of this law;
- e) power of attorney appointing the representative of the applicant, if any;
- f) application fee.

Examination as to formality and filing date

Article 16- Where the application does not duly comply with the requirements of Article 15 and Implementing Regulation, the Institute shall notify the applicant of the defects and invite him to correct them within two months. If the defects are corrected within the time limit, the Institute shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt,

- a) the application contained an express or implicit indication that the registration of a layout-design of integrated circuits is requested;
- b) indications allowing the identity of the applicant to be established;
- c) accompanied by a copy or drawing of the layout-design of integrated circuits.

Where requirements mentioned in second paragraph were not complied with at the date of receipt of the application but are corrected within the time limit, the date of receipt of the required correction shall be date of the application. The Institute shall confirm the filing date and communicate it to the applicant.

If the defects are not corrected within the time limit, the application shall be deemed not to have been filed.

SECTION TWO

Registration

Registration and Publication

Article 17- The Institute shall maintain a Register of a layout-design in which it shall, for each protected layout-design of integrated circuits, effect all the recordings provided for in this Law, where the application complies with the requirements of Article 15 and 16 the Registrar shall register the layout-design of integrated circuits in the Register of layout designs without examination of the originality of the layout-design of integrated circuits, the applicant's right to protection or the correctness of the facts stated in the application.

The content of the Register of layout-designs shall be regulated in implementing regulation.

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

The registration of a layout-design of integrated circuits shall be published in the Bulletin, as regulated in the implementing regulation.

PART FOUR

Legal Transactions Related with the Application and Registration Right

SECTION ONE

Transfer, Inheritance, Security, Levy of Execution

Transfer, Inheritance, Security, Levy of Execution

Article 18 - The rights to the protection of layout-design deriving from an application for a layout-design and from a registered layout-design of integrated circuits may be transferred to third parties, and is subject to inheritance. It is possible to act of disposal on these rights depending on the death.

Application and Registration right to the protection of layout-design of integrated circuits may be charged as security, and may be levied in execution. On request of one of the parties, respective rights are entered in the Register of a layout-design and published. Related provisions of the Turkish Civil Code, and the Bankruptcy and Execution Law shall have effect with respect to security rights and execution.

The transactions between the living over the rights deriving from an application and registration of layout-design of integrated circuits shall be entered into in writing.

The inheritance or transfer of an application or a layout-design of integrated circuits right shall be recorded in the Register of a layout-design and published upon payment of the fee prescribed in the official communiqué on the fees. The effects shall enter into force vis-à-vis third parties as of the publication date.

SECTION TWO

Licensing

Contractual Licence

Article 19 – Rights deriving from the application and registration may be licensed. Any license contract concerning a layout-design shall be registered and published upon the request of the parties. The Institute shall keep its contents confidential. The license contract shall have no effect against third parties until such submission has been made.

License, may be exclusive or non-exclusive. Unless otherwise specified in the contract the license shall understood to be non-exclusive. Licensor may make use of his layout-design

of integrated circuits rights personally, and may grant licenses to third parties on the same layout-design of integrated circuits right

In the case of an exclusive license, licensor shall not grant licenses to other parties and shall not himself make use of the layout-design of integrated circuits right unless such is provided specifically by the contract.

Unless it is specifically provided in the contract, licensee cannot transfer the rights arising from the license or cannot grant a sub license.

Unless provided otherwise by the contract, the holder of an exclusive license may, in the case of an infringement of the layout-design of integrated circuits rights, institute in his own name all legal proceedings which have been made available to the right holder of the layout-design of integrated circuits right by this Law. Holders of non-exclusive licenses do not have the right to institute legal proceedings.

In the case of an infringement, the licensee of a non-exclusive license may give notice, through a notary public, requesting the right holder of the layout-design of integrated circuits to institute such proceedings as required.

In the event that the right holder of a layout-design of integrated circuits refuses to initiate or within three months of the reception of the notice fails to institute proceedings, the non-exclusive licensee shall have the right to institute proceedings enclosing notice. The licensee who has instituted proceedings shall notify of the right holder of layout-design of integrated circuit that the proceedings have been instituted.

The licensee may, in the face of serious damage where elapsing of time cannot be remedied, request the court to issue an injunction for precautionary measures.

PART FIVE Invalidity and Termination of the Right

SECTION ONE Invalidity

Invalidity and Request for Invalidity

Article 20-The registration of a layout-design of integrated circuit shall be declared invalid by the Courts upon the request of consumer association, establishments under the jurisdiction of laws No. 5590 and No. 507 and other person on the grounds that:

- a) Where proved that the layout-design of integrated circuits is not eligible for protection under the provisions of the Articles 5 and 6 of this Law;
- b) Where proved that the entitlement to the layout-design of integrated circuits right as provided in Articles 8, 9, 10 and 11 of this Law, actually belongs to another person or persons.

- c) Where proved that layout-design has been commercially exploited anywhere in the world before the application for registration not within the period of mentioned in Article 7, 1 (a).

Where the invalidity relates only part of the application or of the registered layout-design of integrated circuits, partial invalidity shall be ruled in respect to that part. Invalidity may be suited as counter claim.

The court shall notify the Institute either where the claim is instituted or the final decision.

Institute shall register and publish the final decision of Court.

Effects of Invalidity

Article 21 - A final decision for the declaration of invalidity shall have retroactive effect.

The retroactive effects of invalidity, without prejudice to claims for compensation for damage caused by lack of good faith on the part of the holder of the layout-design of integrated circuits right shall not extend to the following:

- a) any final decision for infringement of a layout-design of integrated circuits right reached and enforced prior to the decision of invalidity;
- b) contracts concluded and executed prior to the decision of invalidity. However, partial or total reimbursement of sums paid under the contract may be claimed on grounds of equity to an extent justifiable by the circumstances;

A final decision of invalidity shall produce effect against all.

SECTION TWO

Termination of the Right

Reasons for Termination

Article 22 - The right of layout-design of integrated circuits arising from this Law shall be considered to have terminated when:

- a) the period of protection has expired;
- b) the right holder of layout-design of integrated circuits has surrendered his right.

The expiry of the period of protection provided by Law, terminated, the subject layout-design of integrated circuits shall be deemed to be a part of the public domain. Termination of the right shall be published by the Institute.

Surrender of Right of a Layout-Design of Integrated Circuit Right

Article 23- Right holder of a layout-design of integrated circuits may surrender of his rights arising from the layout-design of integrated circuits right or the application right.

The surrender shall be filed in writing at the Institute. Surrender shall have effect as of the date of entry in the Register of layout-designs.

Right holder of a layout-design of integrated circuits cannot surrender his right without having the consent of the licensees or holders of rights recorded in the Register of Layout-Design of Integrated Circuit.

Where there is a claim by a third party for the layout-design of integrated circuits and a court injunction to this effect has been recorded in the Register of Layout-Design of Integrated Circuit surrender of layout-design of integrated circuits rights cannot be requested without the consent of the referred third party.

PART SIX

Persons Authorised to Act and Attorneys

Persons Authorised to Act Before the Institute

Article 24 - The following are authorised to act before the Institute :

- a) natural or legal persons who have filed the application;
- b) patent attorneys registered by the Institute.

Legal persons may only be represented by those duly empowered by their respective authorised bodies.

Those who are domiciled outside the country can only be represented by patent attorneys registered by the Institute.

Where an attorney has been appointed, all procedures are executed through the attorney. All notices made to the attorney shall be considered to have been made to the assignee.

PART SEVEN

Infringement of Right and Civil Procedures

SECTION ONE

Infringement of a Layout-Design of Integrated Circuit Right

Infringement

Article 25 - Any person who infringes layout-design protection contrary to the provisions of Article 12 and without having the right under Article 13 may be sued by the injured party to enjoin such infringement.

Where the application for the registration of layout-design of integrated circuits has been published in accordance with Article 17 of this Law, the application right holder has the right to institute civil and penal proceedings against the infringing party. Where the infringing party has been informed of the application and its scope, infringement shall be considered to exist before the publication when the court rules that the infringing party was acting in bad faith.

SECTION TWO Right to Transfer

Right to Transfer

Article 26 - Where the essential content of the application has been taken from the layout-design of integrated circuits of another person, than this person may, request from the court to transfer application.

Where the application has already resulted in a registration ,that person may within three years from the publication of registration , request from the Competent Court to transfer the registration to him and to rectify the entry in the Register accordingly.

SECTION THREE Civil Proceedings

Request of the Right Holder and the Competent Court in Civil Proceeding

Article 27 – Application or registration right holder whose rights have been infringed may request for the following from the Court:

- a) determination of the evidence of infringement;
- b) declaration of an infringement;
- c) remedies for infringement and compensation for damages incurred;
- d) confiscation of products produced or imported and of the equipment used directly to produce such goods which have infringed the rights of a registered layout-design of integrated circuits;
- e) property over the products confiscated in accordance with subparagraph (d); in this case the value of the products shall be deducted from the compensation awarded. If the value of the products turn out to be above the compensation value awarded, the layout-design of integrated circuits right holder shall reimburse to the infringing party;
- f) enforcement measures for the prevention and prohibition of continued infringement of rights, in particular request the destruction of the products and equipment if it is essential for the prevention of acts of infringement or the prevention of alterations on the products and equipment confiscated according to subparagraph (d);

- g) the disclosure to the public and to those related of the courts decision by means of publication, costs of which shall be met by the offending party.

As regards the measures, the court shall rule in accordance with the related provisions of Turkish Civil Procedures Law on precautionary measures.

The competent court, for the institution of civil proceedings by the right holder of the layout-design of integrated circuits against the third parties, is the court of the domicile of the plaintiff or of the place where the acts was committed or of the place where the act had effect.

Where the plaintiff is not a citizen of the Republic of Turkey, the competent court is the court of the domicile of the authorised attorney registered in the registry and if the attorney registration has been cancelled the court of the headquarters of the Institute.

The Competent Court, for the institution of proceedings by the third parties against the right holder layout-design of integrated circuits, is the court of the domicile of the defendant. If the applicant or right holder layout-design of integrated circuits is not domiciled in Turkey, the provisions of the third paragraph shall prevail.

Where there are several competent courts, the court at which the proceedings are instituted first, is the competent court.

Documents Evidencing Infringement

Article 28 - The right holder layout-design of integrated circuits can request from the infringing party the documents related to the use of the layout-design of integrated circuits without his consent, for valuation of the damages incurred suffered because of an infringement of the layout-design of integrated circuits.

Surrender of Profits

Article 29 - The damages incurred by the right holder layout-design of integrated circuits include not only the value of the actual loss but also the income loss incurred because of the infringement of the layout-design of integrated circuits rights.

The loss of income shall be calculated in accordance with one of the following evaluation methods, at the option of the right holder layout-design of integrated circuits:

- a) according to the possible income that the layout-design of integrated circuits right holder would have generated if the competition of the infringing party did not exist;
- b) according to the income generated by the infringing party from the use of the layout-design of integrated circuits;
- c) according to royalty that would have been paid if the party infringing the layout-design of integrated circuits right utilized the layout-design of integrated circuits under a licensing contract.

In calculation of the profits surrendered, in particular the economic value of the layout-design of integrated circuits, the term of protection remaining at the time of infringement, the type and number of licenses outstanding and similar factors shall be taken into consideration.

Where the layout-design of integrated circuits right holder has selected one of the evaluation options specified in Article 31, court may add a reasonable extra amount if in the opinion of courts layout-design of integrated circuits contributes substantially to the economic value of the product.

Time Limit

Article 30 - Time limit provisions of the Law of Obligations of Turkey shall have effect concerning the time limits for request relating to infringements on layout-design of integrated circuits rights.

Oppositions Against the Decisions of the Institute and Actions Before the Court

Article 31- The applicant can file opposition in writing against the decisions of the Institute especially related with the decision of registration within two months of the notification of the decision. Re-examination and Evaluation Board of the Institute shall deliver its decision on the opposition.

Actions may be instituted within two months of the decision, at the competent and specialized courts against the final decisions of the Re-examination and Evaluation Board.

SECTION FOUR Specialized Courts

Competent Courts

Article 32 - Special courts to be established by the Ministry of Justice shall have jurisdiction for all of the actions and claims provided for this Law.

High Council of Judges and Prosecutors shall determine which of the Commercial Courts of the First Instance and the Criminal Courts of the First Instance shall be appointed as special courts and indicate their respective jurisdiction based on the request of the Ministry of Justice.

For actions brought in respect of the Institute's decisions within this Law and for actions brought against the Institute by the third parties who have suffered from the decision of the Institute, the special court referred in the first paragraph shall have jurisdiction.

Publication of the Court's Decision

Article 33 - Where a court judgement has become final, the party whose action was satisfied may request the publication in full or in summary of the final judgement in a daily paper, radio, television or by other means of the media, the costs of which to be met by the other party.

The nature and extent of the publication shall be determined by the judgement. Right of publication shall be void if not exercised within three months of the date of the final judgement.

SECTION FIVE Special Provisions

Claims of Non-infringement to the Right

Article 34 - Any interested person may institute proceedings against the right holder of the layout-design of integrated circuits to obtain a judgement of non-infringement

Prior to the institution of proceedings referred in the first paragraph, a request shall be forwarded through the notary public to the attention of the right holder layout-design of integrated circuits to enable the him to express his views on whether the industrial activities or related serious actions that are initiated in Turkey by the requesting party constitute infringement of the layout-design of integrated circuits rights.

Where the right holder of layout-design of integrated circuits right holder upon receiving such a request does not respond within one month of the date of receipt receiving the letter, or the content of the response is not found acceptable by the requesting party shall have the right to institute proceedings according to the first paragraph.

Persons, against whom action of infringement has been brought in respect of the layout-design of integrated circuits right, cannot institute proceedings with respect to first paragraph.

Institution of proceedings shall be communicated to all right holders entered in the Register.

The actions referred to in this Article may also be instituted jointly with a claim for invalidity.

Precautionary Measures and its Nature

Article 35 - Any person entitled legally to bring action as prescribed by this Law, may appeal to the competed and special court to order precautionary measures.

The request for precautionary measures may be filed before or with the institution of proceedings or filed later. The request for precautionary measures shall be examined separately.

Precautionary measures shall be in nature to enable securing of the judgement and particularly provide the following:

- a) cessation of the acts of infringement of the layout-design of integrated circuits right of the plaintiff;

- b) injunction to arrest within the borders of Turkey, including the customs, the free ports or the free trade areas and keep in custody the produced or imported goods which have infringed the layout-design of integrated circuits rights;
- c) ordering the placement of security for damages to be compensated.

Implementation of the Provisions of Civil Procedures Code

Article 36 - With respect to other actions for securing and precautionary measures, not mentioned in this Law, provisions of the Civil Procedures Code shall have effect.

Border Measures

Article 37- Customs authorities shall suspend s a precautionary measure the release of the products which being exported or imported have infringed the rights of the right holder of the layout-design of integrated circuits.

Suspension of release procedures shall be determined by provisions to be enacted for this purpose.

Suspension of release measure employed by the customs authorities shall cease to have effect if proceedings are not instituted at the special court or a preventive injunction is not obtained from the court within ten working days of the withholding.

PART EIGHT

Exploitation by a Government Agency or Third Person

SECTION ONE

General Conditions of Exploitation

Conditions of Exploitation

Article 38- The Council of Ministers may decide that, even without the authorization of the right holder, a Government agency or a third person may exploit the layout-design of integrated circuits in the case of:

- a) the public interest, in particular, national security, nutrition, health or the development of other vital sectors of the national economy requires the exploitation of a protected layout-design of integrated circuits for public non-commercial use; or
- b) a judicial or administrative body has determined that the manner of exploitation of a protected layout-design of integrated circuits, by the right holder or his license, is anti-competitive, would remedy such practice,

A request for the Council of Minister's authorization shall be accompanied by evidence that the right holder has received, from the person seeking the authorization, a request for a contractual license, but that person has been unable to obtain such a license on reasonable commercial terms and conditions within a reasonable time. Institute evaluates its

idea, depending on the information and evidence, and delivers it to the Council of Minister by related Ministry.

The exploitation of the layout-design of integrated circuits shall be limited; in scope and duration, to the purpose for which it was authorized and shall be predominantly for the supply of the domestic market.

It shall be non-exclusive and shall be subject to the payment to the right holder of an adequate remuneration therefor, taking into account the economic value of the Council of Ministers authorization, as determined in the Minister's decision and, where applicable, the need to correct anti-competitive practices.

The exploitation right given by the Council of Ministers to the third party may be transferred on the condition that it is transferred together with the business or the premises/part of the business where it is being valorized. The Institute shall enter the transfer in the register. The transfer shall have no effect against third parties until this register.

The exploiter don't have a right to give secondary license. Such an action shall be deemed void.

The legal validity of any decision relating to the authorization and to the remuneration provided in respect of such use shall be subject to judicial review by the competent court.

Where such use is permitted to remedy a practice determined in paragraph 1 (b), then the paragraph 2 and 4 shall not be implemented.

Exploitation for Public Interest

Article 39 -The Council of Ministers may decide that to be put to use on grounds of public interest by means of exploitation according to the Article 38 paragraph 1 (a). The concerned Ministry proposes to the Council Ministers to issue a decree pertaining to the grant of exploitation. In case, where the use of the layout-design of integrated circuits is important for national defence or public health, the proposal is prepared jointly by the concerned ministry, and the Ministry of National Defence or the Ministry of Health.

The decision to grant exploitation, may, restrict the use of the layout-design of integrated circuits to one or some enterprises on grounds of its importance for national defence.

SECTION TWO

Termination of Exploitation Right

Termination of Exploitation Right

Article 40- Upon the request of the right holder, the Council of Ministers shall terminate the exploitation right if he is satisfied that the circumstances which led to his decision have ceased to exist and are unlikely to recur or that the beneficiary of the authorization has failed to comply with the terms of the authorization.

Notwithstanding of the first paragraph, the Council of Ministers shall not terminate an authorization if he is satisfied that the adequate protection of the legitimate interests of the beneficiary of the authorization justifies the maintenance of the authorization.

PART NINE
Penal Provisions

SECTION ONE
Penalties

Penalties in the case of Infringement

Article 41 - The persons who have wilfully committed the following acts shall be sentenced to pay a fine of between. two billion four hundred million liras and four billion eight hundred million liras or an imprisonment term of between one and two years, or both of them;

- (a) supplying incorrect information on the declaration concerning the identify of the proprietor of the layout-design of integrated circuit.
- b) removing without authority, the sign, which has been put on a product or its packaging, that is indicating the existence on an layout-design of integrated circuit protection with respect to a legally owned layout-design of integrated circuit right.
- c) falsely exposing oneself as the proprietor of an application of layout-design of integrated circuit or the owner of the layout-design of integrated circuit

The persons who have committed the following acts shall be sentenced to pay a fine of between four billion eight hundred million and eight billion liras or an imprisonment term of between two and three years.

- a) transferring, giving as security or undertaking any other action, done under the conscious knowledge of the non-existence of or of not being entitled to the right of action as such, and committed in respect of the licence obtained or of any one of the rights arising from the related provisions of the statues in respect of protection of layout-design of integrated circuit rights;
- b) committing acts, without being the rightful proprietor of the registered industrial property right or after that the protection has been expired or after for any reason the industrial property right has been invalidated or after the right on the industrial property has been terminated, of putting signs on a product, produced and put on the market by own self or by others, or on its packaging or on commercial documents or on advertising material in such a

way that would give the impression of a relationship with a legally protected layout-design of integrated circuit rights, or of using for these purposes written or verbal expressions, signs or wordings on publicity and advertising material.

Those who have committed any one of the felonies specified in Article 25 shall be sentenced to a fine not to be less than one billion liras or to an imprisonment for a term between two years and four years or four billion eight hundred million and eight billion liras in addition to this penalties, together with judgement shall be ruled to close down the premises of their undertaking for a period not to be less than one year and they shall be prevented from practising any commercial activity during the same period.

In case of repetition the sentences to be administered shall be both fine and imprisonment.

Where the felonies stated above are committed by those working in the undertaking whether on their own initiative or under instructions while carrying out their duties, the employees and the owner or the manager or their representative and the person holding whatever title whatsoever who is de facto managing the undertaking who have not prevented the misdemeanour shall be punished in the same manner.

Where the felonies stated in this Article have been committed during the execution of tasks related with a legal entity, the legal entity shall also be liable for the fines, expenses and damages in succession of the real persons who have committed the misdemeanour. For those assisting the acts, depending on the nature of the action the provisions of the Articles 64, 65, 66 and 67 of the Turkish Penal Code shall apply.

Prosecution with respect to the felonies stated above shall be subject to complaint.

SECTION TWO Right to Complaint

Right to Complaint

Article 42-. Subparagraph 8 of paragraph 1 of Article 344 of the Turkish Criminal Procedures Code No 1412 shall not apply for the implementation of the provisions of this article.

The right of complaint belongs to the person whose layout-design of integrated circuits right has been infringed, and additionally belongs also to the Institute for all felonies except those provisioned in article 25, and to the Consumer Associations and to establishments under the jurisdiction of Laws no 5590 or no 507 for acts of false declaration with respect to true identity of the right holder layout-design of integrated circuits and for acts of affixing signs on a product produced and put to sale by own self or by others, or on its packaging or on commercial documents or on advertising material in such a way that would

give the impression as if a relationship exists with a protected layout-design of integrated circuits right, or of using to the same effect writings, signs or expressions in the advertisements and commercials at the published and visual media without being the right holder of the layout-design of integrated circuits right or after the expiry of the protection term or after the invalidation of the layout-design of integrated circuits right or after the termination of the layout-design of integrated circuits right. The proceedings with respect to the felonious acts should be initiated within two years of the date of being informed of the act and the actor.

The complaints with respect to acts falling within this scope shall be treated as of urgent matters.

The provisions of Article 36 of the Turkish Penal Code and the related articles of the Criminal Procedures Code shall apply for the seizure, the confiscation or the destruction of the goods and the equipment and machinery used to produce these goods which are subjects of acts of felony having infringed the rights arising from a layout-design of integrated circuits right application or a protected layout-design of integrated circuits within the provisions of this Law.

Regulation

Article 43- For the purpose of implementing this law, regulation shall be prepared within three months of the publication of this law and put into force at the same date of this law.

Transitional Article

Article 1 - For the purposes of this Law, until the Special Courts are established, based on the request of the Ministry of Justice, High Council of Judges and Prosecutors shall select from the Commercial Courts of the First Instance and the Criminal Courts of the First Instance those to be appointed as special courts and indicate their respective jurisdictions.

Entry Into Force

Article 44 - This Law shall enter into force on the day of publication.

Execution

Article 45 - This Law shall be executed by the Council of Ministers.
