

**Law Number (05), for the Year 2006
On Designs of Integrated Circuits**

We, Hamad bin 'Isa Al Khalifa, King of the Kingdom of Bahrain,

After having reviewed the constitution;

The Industrial Privileges Patents, Designs, and Trademarks Regulation for the year 1955; amended by the legislative decree No. (22) for 1977;

The Civil and Commercial Proceedings Law enacted by the legislative decree No. (12) for the year 1971 and its amendments;

The Trade Law enacted by the legislative decree No. (7) for the year 1987 and its amendments

Legislative decree No. (7) for the year 1994, ratifying the document of the establishment of the World Trade Organization;

Legislative decree No. (31) for the year 1996 approving the Kingdom's accession to the Paris Convention for the Protection of Industrial Property;

The Civil Law enacted by the legislative decree No. (19), for the year 2001;

The Criminal Procedures Law enacted by legislative decree No.(46) for the year 2002;

Decree No. (1) for the year 1995 on the Kingdom's accession to the Convention of the Creation of the World Intellectual Property Organization (WIPO);

The Shura Council and the House of Representatives have approved the following law which we have endorsed and enacted:

Chapter No. (1) General Provisions

Article (1)

In implementing provisions of this law, an integrated circuit shall mean every product in its final or intermediate form, which components –at least one of them is active - and all its connections, or some of them are integrated or placed on a sheet of material, whereas the objective of this product is to deliver an electronic function.

A design shall mean every three-dimensional array- regardless of method of expression-for components of which one is at least active, and some or all of connections has an integrated circuit, or any three-dimensional array prepared for an integrated circuit for purposes of manufacturing .

Article (2)

Every genuine and registered design according to provisions of this law shall be protected. A design shall be deemed genuine if it is the result of an intellectual effort exerted by its inventor, and at the time of innovation, was not familiar to innovators and manufacturers of integrated circuits.

A design shall also be deemed genuine –even if its components and connections were familiar to manufacturers and innovators of integrated circuits - if the conjunction of such components and connections, to each other, was new.

Article (3)

The competent authority at the Ministry of Industry and Trade shall set up a register named the "Integrated Circuits Designs Register" in which it shall record the accepted integrated circuits designs applications, all data pertaining thereto and all acts affected thereon subject to the provisions of this law, its Executive By-laws and the decisions to be issued to implement it.

Article (4)

Without detriment to any international conventions observed in the Kingdom of Bahrain, any natural or legal person shall be entitled to file an integrated circuit design application and acquire the subsequent rights ensuing therefrom subject to the provisions of this law. Eligible applicants may be nationals of the Kingdom, nationals of countries that are members in the World Trade Organization or nationals of any other country who enjoy national treatment, or that he has on the territories of that member or state a true and active facility for innovating designs of integrated circuits or the production of such circuits.

Article (5)

In case an application for an integrated circuit design was filed at any member-state of the World Trade Organization or at any other country whose nationals enjoy national treatment in the Kingdom; the applicant or the one who has acquired the rights thereof may within a period of twelve months following the date of that application submit a similar application with respect to the same design applied for in the previous application, in accordance with the conditions, requirements and procedures stipulated by this law. In this case, the prior date of application shall enjoy the right of priority.

The application for a design registration shall not be affected by the disclosure of the design specification or commercial exploitation or another application thereof within the period prescribed hereinabove.

Article (6)

The right in design of the integrated circuit shall be for the innovator or for whom its rights are accrued to. If the innovation was a result of a joint work among a number of persons, the right in design shall be for all of them equally unless they agree otherwise. Those whose efforts were confined to mere implementation of the design –innovation shall not be considered as co-participants.

If more than one person has invented the same design independently, their right in design shall be for the prioritized.

Article (7)

Without prejudice to the provisions of Article (631) of the Civil Law, the ownership of the design shall be assigned to the employer provided the invention was the result of a contract or a commitment for exertion of inventive faculty

Article (8)

Should a worker –not entrusted with an invention activity by virtue of the employment contract - create a design relevant to the activity of the employer using expertise, documents, tools, or raw materials put under the disposal of the same worker, belonging to the employer, he shall, immediate to his decision to file the design for the invention in question, notify the employer of that effect in writing accompanied with a non-enveloped acknowledgment of receipt. The employer may choose within a period of three months of receiving the notification either to exploit the design or to purchase the acquired rights thereof, either of which action shall be in return of a fair remuneration.

The worker right of option shall abate by the expiry of the period stated in the previous paragraph if he/she did not express his/her desire to the worker, through a registered letter , with service note enclosed without an envelope.

The provisions stated in this article and in article No (07), of this law, shall apply to civil public officers in the Kingdom and those who have the same status.

Article (9)

Where an application for a design is filed by an inventor within one year of leaving his job at a public or private firm, the application shall be construed as if the same were in service, in which case the inventor and the employer shall be entitled to the all the rights prescribed in the aforementioned Articles (7) and (8) as applicable.

Article (10)

No natural or legal body shall be allowed to perform any of the following, without obtaining a written approval from the design right owner:

1- Reproduction of a fully protected design or parts of it, either by amalgamating it in a full integrated circuit or by using any other method.

2- Importing, selling or distributing a protected design or any integrated circuit for commercial purposes - in which this design is already integrated or any product that contains such a circuit, as long as it is included.

Article (11)

Every of the acts stipulated in clause (2) of Article No. (10) of this law, related to an integrated circuit which includes an integrated design that is unlawfully reproduced or any product that includes such a circuit shall be deemed a enterprise, if the person who initiated or ordered such acts was unaware and not in a position to know, upon acquiring the design, that it was reproduced unlawfully, or that the integrated circuit includes an unlawfully reproduced design or that the product encompasses this circuit.

Notwithstanding the hereinabove if the right owner notified this person, through a registered letter ,with service note enclosed without an envelope that the design in his possession has been unlawfully reproduced, or that the integrated circuit or product included a patented design unlawfully reproduced, the person concerned shall be entitled to dispose of his stock and to dispose of the purchased products for which he was contracted, before receiving the notification, and shall be obliged to pay a sum to the owner of the right equivalent to the reasonable consideration which he /she deserves if the licensing was concluded by both wills.

Article (12)

With exception of Article (10) of this law, it shall not be deemed as an infringement on the rights of the design right owner if a natural or legal person performs any of the hereunder acts without his authorization :

- 1- Reproduction a protected design or any new part of it for personal purposes, objectives confined to evaluation, analysis, research or teaching without others. If this resulted in another design innovation that meets the terms of originality stipulated in Article (2) of this law, the innovator of this design may amalgamate it in an integrated circuit, or perform acts recited in Article (10) of this herein law. This shall not be deemed an infringement on the rights of the first design owner.
- 2- Reproduction of a part of another protected design if it does not meet the terms of originality.
- 3- Inventing a new design that is identical to another protected design that is a result of independent effort.
- 4- Perform acts stipulated in clause. (2) of Article (10) of this law when the right owner permits or approves circulation of the patented design, the integrated circuit in which this design is amalgamated or the product which includes such a circuit in domestic markets or abroad.

Article (13)

The term of a protecting full integrated designs shall be ten years as of the filing date of the application thereof in the Kingdom of Bahrain, or as of the date of the first commercial exploitation of it in the Kingdom or abroad, whichever date is first.

The protection period, in all cases, abates at the elapse of fifteen years calculated from the date of innovation.

Article (14)

The design registration is subject to a fee upon filing. The design is also subject to an annual incremental fee at the beginning of each year starting from the year following the application filing date and ending with the expiry date of protection thereof. Should the patentee fail to pay such fee within a maximum of six months from the beginning of the year, the same shall pay an additional late fee.

Chapter (2)

Design Registration

Article (15)

An application for a design shall be filed by the inventor or the one who has acquired the rights thereof at the competent authority at the Ministry of Trade and Industry, on a special form designed for this purpose in accordance with the provisions prescribed in this Law and the requirements, conditions and procedures defined by the Executive By-laws. One design only shall be applied for in the application.

The application in particular shall disclose detailed specifications of the design that give a full account of the subject invention and graphics, necessary information and the electronic function of the integrated circuit intended for amalgamation, and a sample of the integrated circuit if the design was commercially exploited.

The applicant shall, in all cases, exclude one part or more from the photograph or drawing related to the manufacturing of the integrated circuit, provided the submitted parts are sufficient to prescribe the design and clarify the electronic function of the integrated circuit.

The applicant shall, in all cases, provide all data related to prior applications filed abroad for the same invention, all data pertaining thereto and all acts affected thereon.

An application shall not be accepted if it is submitted two years after the first commercial exploitation of the design in the Kingdom or abroad by the right owner or by authorization thereof.

Date of receiving a complete application for a design registration by the competent department that meets all registration terms shall be deemed the date of filing.

Article (16)

The design applicant may, at any time prior to disclosing the approval of the application, withdraw the application or effect any modifications to the specifications or drawings as the applicant sees fit provided that any modification shall not affect the very nature of the invention according to the procedures prescribed in the Executive By-laws.

Article (17)

(a) The competent administrative authority at the Ministry of Trade & Industry shall examine the design application and the attachments thereof, to verify that it meets the required conditions. It may request any modifications and conditions as it sees appropriate to decide on it.

- (b) Upon issuing the decision of a design registration, any person may require to view the patent and the record thereof made in the register of integrated circuits designs as per the rules and procedures prescribed in the Executive By-laws, and post to paying all due fees.
- (c) Any concerned person may object in writing at the competent authority to the procedures of registration decision of the design within sixty days of the disclosure thereof in which case the objection shall be ground caused.
Fees shall be imposed on raising the objection
The rules and procedures for deciding on the objection are prescribed by the Executive By-laws.

Article (18)

A decision shall be issued by the competent authority at the Ministry of Trade & Industry to register a design after sixty days as of the date of approval if no objection has been filed. The decision shall be disclosed in the manner prescribed by the Executive By-laws. An objection must be submitted within its period of (60) days as of the date of expiry of the prescribed duration for objections.

The person concerned shall receive an official document duly sealed by the Ministry of Trade & Industry showing the details of the design in the form specially designed by the Ministry for this purpose.

Article (19)

The competent authority at the Ministry of Trade & Industry, if it decided to reject the design registration application, must inform the applicant with the decision causes and explaining the reasons behind it by means of a registered letter with non-enveloped service note enclosed and receipt acknowledgement within 30 days as of the date of issue.

Article (20)

The competent administration at Ministry of Trade & Industry may, at any time or at the request of the concerned person, issue a ground caused decision to add any elements to the Register of Integrated Circuits that was ignored, omit or amend or delete any detail that is non-compatible with reality or that has been unlawfully entered. The decision shall be published, all of which, as per the rules and procedures and methodology prescribed in the Executive By-laws.

A fee shall be imposed for the application submitted in accordance with provisions of this herein article.

Chapter (3)
Transfer of Design and License Properties
By Exploitation, Mortgage and Seizure

Article (21)

Ownership of a design may be transferred partly or fully with or without compensation including inheritance. It may also be licensed for exploitation and may be mortgaged and may be decided on in terms of the utilization thereof.

The design ownership, assignment, mortgage or utilization determination thereof shall not constitute an argument against others before the same being recorded in the patent register and the publication thereof in the manner prescribed by the Executive By-laws.

Article (22)

A design may be seized in accordance with the rules of seizing the debtor's movables or garnishment as applicable, as may be the case. The competent authority at the Ministry of Trade & Industry shall be exempted from provisions related to the debtor's acknowledgment of the debt the same owes the creditor.

The creditor shall declare for the Competent Authority the seizure and minutes of the auction bidding to have the same recorded in the Register and neither of these shall constitute an argument vis-à-vis third parties except after they are duly recorded in the manner defined by the Executive By-laws. Fees shall be imposed for recording such entries in the register.

Chapter (04)

Compulsory Licensing By Exploiting the Design

Article (23)

The Minister of Trade & Industry may issue compulsory non-exclusive licensing for the exploitation of designs in the following cases:

1. National emergencies, persisting necessity or for the purposes of non-commercial public utility provided that the patentee shall be informed of that, when possible, after granting the license.
2. Where the owner has not exploited the protected design or has insufficiently exploited it with respect to the needs of local market in the Kingdom at reasonable prices –taking into account the counterpart prices prevalent in other countries - within three years of the date of the design registration or four years of the filing application whichever is longer.
Should the Ministry of Trade & Industry deem that despite the lapse of the period stated in this clause that failure to exploit the subject design is due to reasons that are beyond the control of the right owner, it may grant a grace period not exceeding two years to exploit the design in the aforementioned manner.
3. If the right owner exercises his rights in a way that prevents others from fair competition.

Article (24)

The following shall be taken into consideration upon granting compulsory licenses:

- a.* Each application for a license shall be decided separately for its specific conditions and circumstances, following the payment of the due fees.
- b.* The license shall only be granted for meeting the demand in the local market
- c.* The applicant for a license shall be able to seriously exploit the design through a firm established in the Kingdom of Bahrain.
- d.* The applicant shall have tried to obtain a license from the patentee under reasonable commercial remuneration and conditions but did not reach an agreement during a reasonable period of time, notwithstanding the case stipulated in clause (1) of the previous article.

- e.* The applicant for a compulsory licensing shall undertake that the scope and duration of the license shall be limited to the purpose for which it is granted by the licensing decision.
- f.* Should the invention relate to "semi-conductors" technologies, licensing shall only be permitted for public, general, and non-commercial purposes, or to rectify practices proven to be anticompetitive.
- g.* The licensee shall not assign the license of exploiting the design except to the firm concerned with this exploitation or to the part related to the exploitation of the patent subject to the prior approval by the Ministry of Trade.
- h.* The right owner shall receive an equitable remuneration which takes into account the economic value of the license. It shall also be taken into consideration the necessity of rectifying anticompetitive practices –if they exist- when estimating the remuneration value.
- i.* The terms prescribed in items (*b*) and (*d*) shall not apply in the case of licensing issued to rectify practices deemed to be constraining fair competition.
- j.* The Minister of Trade & Industry of his own motion or upon request of those concerned amends the licensing terms should the conditions for which a license has been given change.

Article (25)

The competent authority at the Ministry of Trade & Industry shall provide the patentee with a copy of the licensing application –in cases other than the one stipulated in item (*a*) of Article (24) of this law, in which case the patentee may submit to the competent authority a written response to the application subject to the periods and procedures defined by the Executive By-laws. In all cases, the Minister of Trade & Industry shall issue a decision to either accept or reject the application or keep the application pending on some requirements he stipulates, and in all cases the Ministry shall be committed to notify the patentee and the license applicant of its decision within thirty days of issuance thereof. Such decision shall be recorded in the designs register and shall be published in the manner prescribed by the Executive By-laws.

Article (26)

The Minister of Trade & Industry may, of his own motion or upon request from the right owner, terminate the license before it expires in the following cases:

- a.* Lapse of the reasons that led to license him provided that it is likely that these reasons will not arise again, in the case of which an adequate protection shall be granted to the legal interests of the licensee,

subject to the conditions and procedures prescribed by the Executive By-laws.

b. Failure on the part of the licensee to exploit the license within two years of the licensing date.

c. Licensee violation of any condition according for which the license was given, or failure to undertake the obligations stipulated in this law and the decisions issued in the implementation thereof.

Chapter (5)

Conclusion and Abrogation of Design Rights

Article (27)

(a) The rights ensued from design registration shall be terminated, in any of the following cases:

- (1) Lapse of the period of protection prescribed in Article (13) of this law.
- (2) The abandonment of the patentee of its rights in the design provided that this abandonment shall constitute no prejudice to the rights of others.
- (3) Abstention for a period more than one year from paying the prescribed due fees in violation of the provisions of Article (14) of this law despite receiving a notice to that effect in the form of a registered letter accompanied with non-enveloped acknowledgment to pay the due fees on the time prescribed by the Executive By- laws.

(b) The issuance of a final ruling on the abrogation of the design registration, or issuing a decision to strike off the registration of the design pursuant to provisions of Article (28) of this law, the decision of registration is regarded void thereof.

(c) All designs which terms of protection lapsed shall be recorded in the integrated circuits register, and a notice thereof shall be published in the manner prescribed in the Executive By- laws.

Article (28)

The competent authority at the Ministry of Trade & Industry may, at any time, of its own motion or at the request of the concerned person, and without prejudice to any sever punishment prescribed by another law, he shall be punished with imprisonment of no less than three months and no more than a year or with a fine of no less than five hundred Dinars and no more than two thousand Dinars or with both penalties the person who unlawfully and willing a ground caused decision to strike off the registration of an integrated circuit design that proved to be registered unlawfully, all of which according to the procedures and rules prescribed in the Executive By-laws.

Fees shall be imposed for the application submitted according to provisions of this article.

Chapter (06) **General Provisions**

Article (29)

Temporary protection shall be granted to designs that satisfy the registration requirements of this law while being displayed in national exhibitions which shall be defined by a decision by the Minister of Trade & Industry. The rules, conditions and procedures for granting the protection are stipulated by the Executive By-laws.

Article (30)

Any interested person may view the Integrated Circuits Designs Register and get extracts, drawings or data therefrom subject to the rules, procedures and manner prescribed by the Executive By-laws and after payment of the due fees for all the extracts, drawings or data.

Article (31)

Without prejudice to the provisions pertaining to the objection prescribed in clause (c) the Article (17) of this Law, any concerned person may adjudicate in writing to the Minister of Trade & Industry any decision issued in accordance with the provisions of this law within thirty days of the date of being informed of the decision.

The grievance shall be decided on, and the concerned person shall be informed within sixty days of the date of his grievance.

The petitioner may revoke the rejection decision before the Civil Supreme Court within sixty days of being informed of the rejection of his grievance.

Revocation before the Court may not be applicable unless, the decision is adjudicated and the grievance is rejected or the lapse of the date specified for deciding it without notification.

Article (32)

A decision shall be issued by the Minister of Trade & Industry after the approval of the Cabinet to stipulate the categories of fees prescribed in this law and the rules, rates of increase and decrease and exemption thereof.

Article (33)

The employees appointed and duly authorized by the Minister of Trade & Industry to verify implementation of this herein law provisions and related issued decisions shall have the authority to enter commercial stores. The employees appointed and duly authorized by the Minister of Justice in agreement with the Minister of Trade & Industry shall have the capacity of Judicial Control Commissioners concerning the offenses taking place within their own jurisdiction and that pertain to their functions. The

written minutes concerning these offenses shall be transferred to the Attorney General by virtue of a decision by the Minister of Trade & Industry or the one he delegates for this purpose.

Article (34)

a. In the case of infringement or to prevent threats of infringement on any of the rights prescribed by this Law, the right owner may request an order in a petition from the chief of the court competent with the dispute source to take one or more precautionary measures as appropriate including the following:

- i.** Making a detailed description of the goods –including the imported ones upon importation thereof-, materials, machinery and equipment used or that have been used in the infringement act and keeping the pertinent evidence.
- ii.** Effecting precautionary seizure on the items mentioned hereinabove.
- iii.** Stoppage of infringement

b. The petition shall be accompanied with sufficient evidence proving that the applicant is the right proprietor and that the said right is subject or vulnerable to infringement. The chief of the court may request the applicant to submit necessary information to help the competent authority to carry out the precautionary measure in identifying the products, materials, machinery or tools in question.

c. The chief of the court, when necessary, may issue the aforementioned order on an urgent basis –without summoning the other party- should there be a likelihood that any delay in issuing the order would lead to an inevitable damage on the part of the plaintiff or that it would lead to the destruction of the evidence- provided that the defendant shall be informed of the decision upon issuance thereof.

d. The issued order for taking any of the aforementioned measures in clause (**a**) may include delegating one expert or more to assist the execution of the order or impose the deposit on the plaintiff of banking or monetary guarantee appropriate to compensate for any damage that may unlawfully result out of this measure.

e. The defendant may adjudicate the decision before the competent court within the ten days following the issuance of the decision or from the date of notifying him, as applicable, in the case of which the court may support the decision or abrogate it wholly or partially.

f. The lawsuit concerning the dispute source shall be raised within fifteen days as of the date of issuance of the order or otherwise the effects of the taken measure shall be rendered void and null.

Article (35)

Without prejudice to any sever punishment prescribed by another law, he shall be punished with imprisonment of no less than three months and no more than a year or with a fine of no less than five hundred Dinars and no more than two thousand Dinars or with both penalties the person who unlawfully and willingly committed any of the acts stipulated in items (1) and (2) of Article (10) of this law.

The court may order to publish the verdict in a daily newspaper for one time or more at the cost of the defendant.

In the case of repetition of the offense, the imprisonment term shall be no less than six months and no more than two years, or the fine no less than one thousand Dinars and no more than four thousand Dinars or with both penalties with the closure of the commercial store or project or stoppage of the activity –as applicable- for a period of no less than fifteen days and no more than six months. The verdict thereof shall be published one time or more in a daily newspaper at the expense of the defendant.

The court may, when a conviction is issued, order to confiscate or destroy the things accruing from the offense including the goods imported from abroad upon importation along with the tools and equipment used for that purpose.

It may, when an acquittal ruling is issued, order to confiscate or destroy the items mentioned hereinabove should it have resulted in injuries or have been used to infringe the rights stipulated in the herein Law.

Article (36)

The Minister of Trade & Industry shall issue the Executive By-laws and the necessary decisions to implement provisions of this Law within six months of the date of enacting provisions of this Law.

Article (37)

The Ministers, each in his own capacity, shall implement this Law, which shall come into effect as of the next day following the publication thereof in the Official Gazette.

King of the Kingdom of Bahrain
Hamad Bin Isa Al-Khalifa

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