



ALGERIA

Design Law: Law no. 08-03 of 2003

Design Law: Integrated Circuits

Order (Act) No. 08-03 dated 19 Jumada I, 1424 corresponding to July 19, 2003 related to the protection of figurative designs of integrated circuits

- By virtue of the Constitution, especially Articles 38, 52, 122 and 124 therein,
- In accordance with Order (Act) No. 66-154 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Civil Procedures Law, as amended and supplemented,
- In accordance with Order No. 66-155 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Penal Procedures Law, as amended and supplemented,
- In accordance with Order No. 66-156 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Penal Law, as amended and supplemented,
- In accordance with Order No. 75-58 dated 20 Ramadan 1395 corresponding to September 26, 1975 related to the Civil Law, as amended and supplemented,
- In accordance with Order No. 75-59 dated 20 Ramadan 1395 corresponding to September 26, 1975 related to the Trade Law, as amended and supplemented,
- In accordance with Law No. 79-07 dated 26 Sha'aban 1399 corresponding to July 21, 1979, which includes the Customs Law, as amended and supplemented,
- In accordance with Law No. 84-17 dated 8 Shawwal 1404 corresponding to July 7, 1984, related to the Finance Laws, as amended and supplemented,

Having listened to the discussions of the Council of Ministers

The President of the Republic issues an order that reads as follows:

PART ONE GENERAL PROVISIONS

Article 1:

This Order shall aim at identifying the rules related to the protection of figurative designs of integrated circuits.

Article 2:

The following words herein shall have the meanings indicated against each:

- Integrated Circuit: a product in its final or transitional shape comprising at least one active element, and all correlations or part thereof are an integrated part of a substance and/or surface of a piece of a material, and it is allocated to perform electronic function.

- Figurative Design, equivalent to topography: each three-dimensional arrangement, whatever its form is, for elements at least one element therein is an active one, and all connections of integrated circuit or part thereof, or an arrangement similar to such three-dimensional arrangement prepared for an integrated circuit for manufacturing purposes.

- Owner: the natural or legal person who is considered a beneficiary of the protection specified in Articles 3 & 4 below.

- Competent Authority: the Algerian National Institute for Industrial Property.

Article 3:

Under this Order, figurative designs of original I integrated circuits shall be protected. The figurative design shall be considered original if it is the result of the inventor intellectual efforts and has not been circulated among inventors of figurative designs and manufacturers of integrated circuits.

When the figurative design consists of a composition of familiar elements and connections, the protection thereof shall be impossible unless it complies with the conditions set forth in the two previous paragraphs.

Article 4: The protection given to the figurative design shall only be applicable to the figurative designs of integrated circuits themselves, except for each perspective, method, system, technique or coded information therein.

PART TWO GRANTED RIGHTS

Article 5:

The protection granted under this Order shall entitle its owner to prevent others from performing the following actions without his approval:

1) To wholly or partially reproduce the protected figurative design of the integrated circuit, by incorporation in an integrated circuit or by another method, unless it is related to reproducing a part thereof that does not fulfill the originality conditions as specified in Article 3 above.

2) To import, sell or distribute in any other form, for commercial purposes, a protected figurative design or integrated circuit of which figurative design includes this circuit, as it still illegally contains the reproduced figurative design. The owner of the figurative design shall also have the right to assign or transfer it by way of inheritance and license contracts.

Article 6:

The granted protection under this Order shall not include the following activities.

1) Reproducing the protected figurative design for special or pure purposes of evaluation, analysis, research or education.

2) Incorporating innovative figurative design within an integrated circuit based on this analysis or evaluation, as this design represents by itself the originality in accordance with the provision of Article 3 above, or it is for the purpose mentioned in paragraph 1 above.

3) Performing any of the work mentioned in Article 5 (Paragraph 2) above, when it is made on a protected figurative design or integrated circuit comprising a figurative design marketed by the owner or upon his approval.

4) Performing any of the work mentioned in Article 5 (Paragraph 2) above on a protected figurative design, integrated circuit comprising illegally reproduced design or any substance includes this circuit, if the person does not know or has insufficient proof to know, when purchasing this circuit or the substance comprising such circuit, that it includes a figurative design illegally reproduced.

However, when that person is completely informed that the figurative design is illegally reproduced, he may proceed any of the above mentioned work on his own inventory or the inventory he has requested prior to his notification thereof. Moreover, he shall pay to the owner of the right a sum of money equal to the reasonable royalty to be requested within the frame of optional contractual license for the same figurative design.

5) Performing any of the work mentioned in Article 5 (Paragraph 2), when it is made on a similar original figurative design independently innovated by others.

Article 7:

The effective date of the protection granted to a figurative design under this Order, shall start from the date of filing its registration application or from the date of the first commercial use thereof, anywhere in the world, by the right's owner or upon his approval, if this use is prior to the filing date, provided that such filing is made within the period set forth in Article 8 below.

PART THREE FILING & REGISTRATION

Chapter One The Right of Filing

Article 9:

The right to file a figurative design shall be of its inventor or its right owner. If two persons or more have invented a figurative design, the right of filing thereof shall belong to all of them.

Article 10:

If a figurative design is made within the frame of organization contract or employment contract, the right of filing shall belong to the project owner or the employing organization, unless otherwise is provided for in contrary contractual provisions.

Chapter Two Filing Formalities

Article 11:

Each person who wishes to obtain the legal protection for a figurative design shall explicitly request thereof before the competent authority.

Only one application shall be filed for every figurative design.
The formalities to implement the provisions of this Article shall be determined through the regulation.

Article 12:

The filing party residing abroad shall appoint representatives with the competent authority as per the specified conditions by the regulation, other than the reciprocity agreement.

Article 13:

The date to file the application for protecting the figurative design shall be the date in which the competent authority receives at least an application identifying the filing party and his intention to register a figurative design and a copy or drawing thereof.

Article 14:

Each application for protecting a figurative design shall be subject to the payment of charges specified in accordance with the applicable legislation.

Chapter Three Registration & Publication

Article 15:

The competent authority shall keep a register called "Figurative Designs Register" in which all works provided for in this Order and the approved provisions for implementation thereof shall be recorded.

Article 16:

If the application fulfills the required formal conditions, the competent authority shall register the figurative design in the register mentioned in Article 15 above. The registration shall be made without examining the originality, the right of filing party in protection or the correctness of information included in the application. The competent authority shall deliver a registration certificate to the filing party.

The methods to prepare the register shall be determined by the regulation. The competent authority shall keep a numbered and initiated extract thereof.

Article 17:

Each one shall have access to the figurative design register and obtain extracts therefrom in return for charges.

Article 18:

The figurative design and all data recorded in the register shall be published in the official gazette of industrial property.

Article 19:

Each one shall have access to the file of registered figurative design, however; he may not receive any copy thereof without permission from its owner and without payment of the charge specified in accordance with the applicable legislation.

**PART FOUR
RIGHTS FORFEITURE**

**Chapter One
Withdrawal**

Article 20:

The filing of a figurative design shall be withdrawn, prior to registration, in any time, under a written statement after paying the charge specified in accordance with the applicable legislation.

Article 21:

The withdrawal permit shall include only one filing to be submitted by the filing party or his legal authorized representative.

Article 22:

If a figurative design is filed in the name of many persons, it shall not be withdrawn unless all these persons request thereof.

If rights are registered, particularly which relate to mortgage or license, in the Figurative Designs Register, the withdrawal permit shall be accepted only if accompanied with a written approval from the owners of this right

**Chapter Two
Assignment**

Article 23:

The owner of a figurative design may wholly or partially assign it upon a signed request sent to the competent authority.

Article 24:

If the figurative design is a property of several persons, the assignment request shall not be accepted unless it is accompanied with a written approval from all owners.

If the rights of mortgage or license comprising a figurative design have been registered in the Register set forth in Article 15 above, the withdrawal request shall not be accepted unless it is accompanied with the written approval of the owners of this right.

Article 25:

The assignment shall be registered, after being accepted by the competent authority, in the Figurative Designs Register, and shall be effective as of the date of this registration.

The withdrawal registration shall be subject to paying the charges specified in accordance with the applicable legislation

**Chapter Three
Nullification**

Article 26:

The registration of a figurative design shall nullify under a judicial ruling:

- If the figurative design is unprotectable as specified in Article 3 above,
- If the filing party is not qualified as innovative under Articles 9 & 10 above.
- If filing has not been made during the period specified in Article 8 above.

Each concerned person may file the nullification action before the competent judicial authority.

Article 28:

If nullification of registration is decided by a judicial ruling with enforcement power, a copy thereof shall be forwarded by the concerned party to the competent authority to register it in the Figurative Design Register.

**PART FIVE
RIGHTS TRANSFER**

**Chapter One
The Transfer**

Article 29:

The rights associated with the filed figurative design shall be completely or partially transferable.

All details shall be recorded in the contracts comprising ownership transfer, right of use assignment, forfeiture thereof, mortgage or dismortgage related to the figurative design in accordance with the law regulating this contract. These contracts shall be recorded in the Figurative Design Register.

These contracts shall not be of significance towards third party unless after registration.

Chapter Two Contractual Licenses

Article 30:

The owner of a figurative design may grant another person, under a contract, a license to use his figurative design.

The items included in the license related contracts shall be considered void if they impose on the license holder, in the industrial or commercial field, limitations that constitute an abusive use of rights granted herein and have detrimental effects on the competition in the national market.

After recording a contract of figurative design related license, the competent authority shall maintain the content confidentiality and shall only publish a related announcement.

Chapter Three Compulsory Licenses

Article 31: The Minister of the Industrial Property may, without the approval of the owner, decide that a public entity of a third party appointed by him, use the figurative design in one of the following cases:

- If necessitated by the public interest, especially the national security, nutrition, health or any other vital sectors of the national economy, the use of a protected figurative design for non-commercial public purposes.
- When a legal or administrative authority decides the non- competitiveness of methods by which the owner or the license holder uses the protected figurative design, and when the Minister of Industrial Property is convinced that the use of the figurative design in accordance with this Article would stop such practices.

The license of use shall be specific in terms of content and term based on the subject for which it has been delivered. It shall be basically directed to supply the national market.

This right of use shall not be exclusive. It shall require paying consideration to the owner, taking into consideration the economic value of the ministerial license as specified in the Minister's decision, when necessary, to control non-competitive practices.

Article 32:

The Minister of Industrial Property may, upon a request from the license owner or beneficiary, after hearing the two parties upon the will of both or one of them, change the license decision to use the figurative design according to the circumstances.

Article 33:

The Minister of Industrial Property may, upon a request from the owner, withdraw the compulsory license:

1. If the conditions that justify granting the compulsory license are no longer exist.
2. If the beneficiary of compulsory license does not fulfill the determined conditions.

Notwithstanding the previous provisions of Paragraph 1 above, the Minister of Industrial Property shall not withdraw the license if he is convinced that protecting the legal interests of the license beneficiary justify its validation.

Article 34:

If any other person has been appointed in accordance with Article 31 (Paragraph 1) above, the compulsory license shall be transferred only with the institution of license beneficiary or the party of the institution where the figurative design is used.

PART SIX

RIGHTS INFRINGEMENT & PENALTIES

Article 35:

Any infringement to the rights of the figurative design owner shall, as specified in Articles 5 & 6 above, be considered a counterfeit misdemeanor, and shall entail the civil and penal liability.

Article 36:

Each person who intentionally infringes these rights shall be penalized with imprisonment for not less than six months and not more than two years and shall be fined for not less than A.D. (2.500.000) and not more than A.D. (10.000.000) or one of these penalties.

The court may additionally order the suspension of ruling where it deems appropriate and shall completely or partially publish it in the newspapers selected by it at the convict expense.

Article 37:

The court may, in the case of conviction; order to damage the products subject matter of the misdemeanor or put them out of commercial circulation, and confiscate the equipments used in manufacturing thereof.

Article 38:

Subject to Article 8 above, the activities prior to filing shall not require any lawsuit under this Order.

The activities posterior to filing but prior to publication shall not require any civil or penal lawsuit, unless the party incurring damages proves the bad faith of the perpetrator.

Any action, whether civil or penal, shall not be filed prior to publication of filing. If events are subsequent to publishing the registration, the perpetrators may display their good faith subject to proving thereof.

Article 39:

The party incurring damages may, even prior to the publication of registration by a judicial report, make a detailed description of seizure or non-seizure of articles or tools subject matter of the misdemeanor under a petition from the Presiding Judge of the competent court and based on a petition subject to a registration certificate.

Article 40:

When the seizure is requested, the judge may order the applicant to pay a bail.

Article 41:

The description or seizure shall be considered invalid if the applicant does not file a civil or penal action within one month of the description or seizure date, without prejudice to damages' compensation.

**PART SEVEN
CLOSING PROVISION**

Article 42:

This Order shall be published in the Official Gazette of People's Democratic Republic of Algeria.

This has been executed in Algeria on 19 Jumada I, 1424 corresponding to July 19, 2003.

President Abdul-Aziz Bu Tafilika