

## Subject

### Patent Law of the People's Republic of China

#### 第十八条

在中国没有经常居所或者营业所的外国人、外国企业或者外国其他组织在中国申请专利和办理其他专利事务的，应当委托依法设立的专利代理机构办理。

#### Article 18

Where any foreigner, foreign enterprise or other foreign organization without a habitual residence or business office in China files a patent application or handles other patent-related matters in China, he or it shall entrust a legally established patent agency with the application or such matters.

#### 第十九条

任何单位或者个人将在中国完成的发明或者实用新型向外国申请专利的，应当事先报经国务院专利行政部门进行保密审查。保密审查的程序、期限等按照国务院的规定执行。

#### Article 19

Where any entity or individual intends to file a patent application abroad in a foreign country for any an invention or utility model accomplished in China, it or he shall submit the matter to request the patent administration department under the State Council for confidentiality examination in advance. The procedures and duration etc. of the confidentiality examination shall be carried out in accordance with the regulations of the State Council.

#### 第二十九条

申请人自发明或者实用新型在外国第一次提出专利申请之日起十二个月内，或者自外观设计在外国第一次提出专利申请之日起六个月内，又在中国就相同主题提出专利申请的，依照该外国同中国签订的协议或者共同参加的国际条约，或者依照相互承认优先权的原则，可以享有优先权。

申请人自发明或者实用新型在中国第一次提出专利申请之日起十二个月内，或者自外观设计在中国第一次提出专利申请之日起六个月内，又向国务院专利行政部门就相同主题提出专利申请的，可以享有优先权。

#### Article 29

Where, within twelve months from the date on which any applicant first filed in a foreign

country a patent application for an invention or utility model, or within six months from the date on which any applicant first filed in a foreign country a patent application for a design, he or it files in China a patent application for the same subject matter, he or it may enjoy the right of priority in accordance with the agreements concluded between the foreign country and China, or in accordance with the international treaties to which both countries are parties, or on the basis of the principle of mutual recognition of the right of priority.

Where, within twelve months from the date on which any applicant first filed in China a patent application for an invention or utility model, or within six months from the date on which any applicant first filed in China a patent application for a design, he or it files with the patent administration department under the State Council a patent application for the same subject matter, he or it may enjoy the right of priority.

#### 第五十二条

当事人就实施开放许可发生纠纷的，由当事人协商解决；不愿协商或者协商不成的，可以请求国务院专利行政部门进行调解，也可以向人民法院起诉。

#### Article 52

Where a dispute arises over the implementation of an open license, the parties shall resolve it through consultation. Where the parties are unwilling to consult with each other or where the consultation fails, they may either request the patent administration department under the State Council to mediate the matter, or file a lawsuit in the people's court.

#### 第七十二条

专利权人或者利害关系人有证据证明他人正在实施或者即将实施侵犯专利权、妨碍其实现权利的行为，如不及时制止将会使其合法权益受到难以弥补的损害的，可以在起诉前依法向人民法院申请采取财产保全、责令作出一定行为或者禁止作出一定行为的措施。

#### Article 72

Where the patentee or any interested party has evidence to prove that another person is infringing or is about to infringe its or his patent right or hinders the realization of the right, which, unless being stopped in time, may cause irreparable damage to his lawful rights and interests, it or he may, before filing a lawsuit, apply to the people's court for adopting measures for property preservation, ordering to do certain acts or to prohibit certain acts in accordance with the law.

### Copyright Law of the People's Republic of China

## 第八条

著作权集体管理组织根据授权向使用者收取使用费。使用费的收取标准由著作权集体管理组织和使用者代表协商确定，协商不成的，可以向国家著作权主管部门申请裁决，对裁决不服的，可以向人民法院提起诉讼；当事人也可以直接向人民法院提起诉讼。

## Article 8

Collective administration organizations of copyrights shall collect royalties from users based on the authorization. The standard for the collection of royalties shall be determined by the collective administration organizations of copyrights and representatives of the users through consultation; if consultation fails, the parties may file an application to the competent department of copyright of the State for a ruling; if the said parties are not satisfied with the ruling, they may bring a lawsuit in the people's court, or the parties may directly bring a lawsuit in the people's court.

## 第二十四条

在下列情况下使用作品，可以不经著作权人许可，不向其支付报酬，但应当指明作者姓名或者名称、作品名称，并且不得影响该作品的正常使用，也不得不合理地损害著作权人的合法权益：

## Article 24

In the following cases, a work may be used without permission of, and without payment of remuneration to the copyright owner, provided that the name or appellation of the author and the title of the work are indicated, the normal use of the work is not affected and the legitimate rights and interests enjoyed by the copyright owner are not unreasonably prejudiced:

## 第五十六条

著作权人或者与著作权有关的权利人有证据证明他人正在实施或者即将实施侵犯其权利、妨碍其实现权利的行为，如不及时制止将会使其合法权益受到难以弥补的损害的，可以在起诉前依法向人民法院申请采取财产保全、责令作出一定行为或者禁止作出一定行为等措施。

## Article 56

Where a copyright owner or a copyright-related right owner has evidence to prove that another person is committing, or is about to commit, an infringement upon his rights or an act hindering the realization of his rights, and failure to stop such acts in a timely manner will cause

irreparable damage to his legitimate rights and interests, **he** may, before bringing a lawsuit, apply to a people's court in accordance with the law for taking such measures as preserving property, ordering performance of a specific act, or prohibiting a specific act.

## **Regulations on the Protection of Layout-Designs of Integrated Circuits**

### **第十九条**

布图设计登记申请人对国务院知识产权行政部门驳回其登记申请的决定不服的，可以自收到通知之日起 3 个月内，向国务院知识产权行政部门请求复审。国务院知识产权行政部门复审后，作出决定，并通知布图设计登记申请人。布图设计登记申请人对国务院知识产权行政部门的复审决定仍不服的，可以自收到通知之日起 3 个月内向人民法院起诉。

### **Article 19**

Where the applicant for layout-design registration is not satisfied with the decision of the intellectual property administration department of the State Council rejecting its or his application for registration, **it or he** may, within three months from the date of receipt of the notification, request the intellectual property administration department of the State Council to make a reexamination. The intellectual property administration department of the State Council shall, after reexamination, make a decision and notify the applicant for layout-design registration. Where the applicant for layout-design registration is still not satisfied with the decision of reexamination of the intellectual property administration department of the State Council, **it or he** may, within three months from the date of receipt of the notification, bring a law suit before the people's court.

### **第三十二条**

布图设计权利人或者利害关系人有证据证明他人正在实施或者即将实施侵犯其专有权的行为，如不及时制止将会使其合法权益受到难以弥补的损害的，可以在起诉前依法向人民法院申请采取责令停止有关行为和财产保全的措施。

### **Article 32**

Where any holder of the right of layout-design or interested party has evidence to prove that another person is infringing or will soon infringe its or his exclusive right and that if such infringing act is not checked or prevented from occurring in time, **it** is likely to cause irreparable harm to its or his `legitimate rights, **it or he** may, before any legal proceedings are

instituted, request the people's court to adopt measures for ordering the suspension of relevant acts and the preservation of property.