

## Information Supplementation

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

#### 第三条

国务院专利行政部门负责管理全国的专利工作；统一受理和审查专利申请，依法授予专利权。

省、自治区、直辖市人民政府管理专利工作的部门负责本行政区域内的专利管理工作。

#### Article 3

The patent administration department under the State Council shall be responsible for the administration of the patent-related work throughout the country. It shall accept and examine patent applications in a uniform way, and grant patent rights in accordance with law.

The departments in charge of patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administrative work concerning patents within their respective administrative areas.

#### 第四条

申请专利的发明创造涉及国家安全或者重大利益需要保密的，按照国家有关规定办理。

#### Article 4

Where an invention-creation for which a patent is applied for relates to national security or other major interests of the State and confidentiality needs to be maintained, the patent application shall be handled in accordance with the relevant prescriptions of the State.

#### 第五条

对违反法律、社会公德或者妨害公共利益的发明创造，不授予专利权。

对违反法律、行政法规的规定获取或者利用遗传资源，并依赖该遗传资源完成的发明创造，不授予专利权。

#### Article 5

No patent right shall be granted for any invention-creation that violates laws or social morality or that is detrimental to the public interests.

No patent right shall be granted for any invention-creation where the acquisition or utilization of the genetic resources, on which the development of the invention-creation relies, violates the provisions of laws or administrative regulations.

#### 第六条

执行本单位的任务或者主要是利用本单位的物质技术条件所完成的发明创造为职务发明创造。职务发明创造申请专利的权利属于该单位，申请被批准后，该单位为专利权人。该单位可以依法处置其职务发明创造申请专利的权利和专利权，促进相关发明创造的实施和运用。

非职务发明创造，申请专利的权利属于发明人或者设计人；申请被批准后，该发明人或者设计人为专利权人。

利用本单位的物质技术条件所完成的发明创造，单位与发明人或者设计人订有合同，对申请专利的权利和专利权的归属作出约定的，从其约定。

#### Article 6

An invention-creation that is accomplished in the course of performing the duties of an employee, or mainly by using the material and technical conditions of an employer, is a service invention-creation. For a service invention-creation, the right to apply for a patent belongs to the employer. After such application is approved, the employer shall be the patentee. The employer may, in accordance with the law, dispose of the right to apply for a patent for its service invention-creation and the patent right, thereby facilitating the exploitation and utilization of the relevant invention-creation.

For a non-service invention-creation, the right to apply for a patent belongs to the inventor or designer. After the application is approved, the inventor or designer shall be the patentee.

For an invention-creation that is accomplished by using the material and technical conditions of an employer, if the employer has concluded a contract with the inventor or designer providing the ownership of the right to apply for the patent or the ownership of the patent right, such provision shall prevail.

#### 第十六条

发明人或者设计人有权在专利文件中写明自己是发明人或者设计人。

专利权人有权在其专利产品或者该产品的包装上标明专利标识。

## Article 16

The inventor or designer shall have the right to be named as such in the patent documents.

The patentee shall have the right to have his patent indication displayed on the patented product or on the package of that product.

## 第三十四条

国务院专利行政部门收到发明专利申请后，经初步审查认为符合本法要求的，自申请日起满十八个月，即行公布。国务院专利行政部门可以根据申请人的请求早日公布其申请。

## Article 34

Where, after receiving a patent application for an invention, the patent administration department under the State Council finds that the application meets the requirements of this Law after preliminary examination, it shall publish the application promptly after the expiration of eighteen months from the filing date. Upon the request of the applicant, the patent administration department under the State Council may publish the application earlier.

## 第六十二条

取得实施强制许可的单位或者个人应当付给专利权人合理的使用费，或者依照中华人民共和国参加的有关国际条约的规定处理使用费问题。付给使用费的，其数额由双方协商；双方不能达成协议的，由国务院专利行政部门裁决。

## Article 62

The entity or individual that is granted a compulsory license for exploitation shall pay reasonable royalties to the patentee, or deal with the issue of royalties in accordance with the provisions of the relevant international treaties to which the People's Republic of China is a party. Where royalties are paid, the amount of royalties shall be negotiated by both parties. Where the parties fail to reach an agreement, the patent administration department under the State Council shall make a ruling.

## 第八十条

从事专利管理工作的国家机关工作人员以及其他有关国家机关工作人员玩忽职守、滥用职权、徇私舞弊，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予处分。

## Article 80

Where a State functionary working for patent administration or any other State functionary concerned neglects his duties, abuses his powers, or engages in malpractice for personal gain, which constitutes a crime, shall be investigated for his criminal responsibility in accordance with law. If the case is not serious enough to constitute a crime, he shall be given sanctions in accordance with law.

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

第二条 中国公民、法人或者非法人组织的作品，不论是否发表，依照本法享有著作权。

外国人、无国籍人的作品根据其作者所属国或者经常居住地国同中国签订的协议或者共同参加的国际条约享有的著作权，受本法保护。

外国人、无国籍人的作品首先在中国境内出版的，依照本法享有著作权。

未与中国签订协议或者共同参加国际条约的国家的作者以及无国籍人的作品首次在中国参加的国际条约的成员国出版的，或者在成员国和非成员国同时出版的，受本法保护。

## Article 2

Works of Chinese citizens, legal persons or unincorporated organizations, whether published or not, shall have copyright in accordance with this Law.

The copyright enjoyed by foreigners or stateless persons in any of their works under an agreement concluded between China and the country to which the authors belong or in which they have their habitual residences, or under an international treaty to which both countries are parties, shall be protected by this Law.

Any work of foreigners and stateless persons published for the first time within the territory of China shall have copyright in accordance with this Law.

Any work of an author from a country that has not concluded any agreement with China or does not join an international treaty to which China is a party and any work of a stateless person, which is published for the first time in a member country of an international treaty to which China is a party, or simultaneously published in a member country of the treaty and in a non-member country, shall be protected by this Law.

## 第十四条

两人以上合作创作的作品，著作权由合作作者共同享有。没有参加创作的人，不能成为合作作者。

合作作品的著作权由合作作者通过协商一致行使；不能协商一致，又无正当理由的，任何一方不得阻止他方行使除转让、许可他人专有使用、出质以外的其他权利，但是所得收益应当合理分配给所有合作作者。

#### Article 14

Where a work is created jointly by two or more authors, the copyright in the work shall be enjoyed jointly by the co-authors. A person who does not participate in the creation shall not be a co-author.

The copyright of a joint work shall be exercised by the co-authors through consensus; where consensus cannot be reached and there are no justifiable reasons, no party shall prevent the other parties from exercising rights other than transferring, permitting others' exclusive use of and pledging the copyright, but the proceeds obtained shall be reasonably distributed to all co-authors.

#### 第四十一条

本法第三十九条第一款第一项、第二项规定的权利的保护期不受限制。

本法第三十九条第一款第三项至第六项规定的权利的保护期为五十年，截止于该表演发生后第五十年的 12 月 31 日。

#### Article 41

The term of protection for the rights provided in Subparagraphs (1) and (2) of the first paragraph of Article 39 of this Law shall not be limited.

The term of protection for the rights provided in Subparagraphs (3) to (6) of the first paragraph of Article 39 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the performance takes place.

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

#### 第二条

（一）集成电路，是指半导体集成电路，即以半导体材料为基片，将至少有一个是有源元件的两个以上元件和部分或者全部互连线路集成在基片之中或者基片之上，以执行某种电子功能的中间产品或者最终产品；

#### Article 2

(1) "integrated circuit" means semiconductor integrated circuit, that is, a product, in its intermediate or final form, which uses semiconductor material as its chip, in and/or on which two or more elements, at least one of which is an active element, and some or all of the interconnections are integrally formed and which is intended to perform a certain electronic function;

#### 第七条

布图设计权利人享有下列专有权：

#### Article 7

The holder of the right of layout-design shall enjoy the following exclusive right:

#### 第八条

未经登记的布图设计不受本条例保护。

#### Article 8

Any unregistered layout-design shall not be protected under these Regulations.

#### 第九条

布图设计专有权属于布图设计创作者，本条例另有规定的除外。

由法人或者其他组织主持，依据法人或者其他组织的意志而创作，并由法人或者其他组织承担责任的布图设计，该法人或者其他组织是创作者。

由自然人创作的布图设计，该自然人是创作者。

#### Article 9

The exclusive right of layout-design shall belong to its creator, except as otherwise prescribed in these Regulations.

Where a layout-design is created according to the will and under the charge of a legal person or other organization, which shall bear responsibility for such layout-design, that legal person or other organization shall be the creator.

Where a layout-design is created by a natural person, that person shall be the creator.

#### 第十条

两个以上自然人、法人或者其他组织合作创作的布图设计，其专有权的归属由合作者约定；未作约定或者约定不明的，其专有权由合作者共同享有。

#### Article 10

Where a layout-design is created jointly by two or more natural persons, legal persons or

other organizations, the ownership of the exclusive right shall be agreed upon by the joint creators; in the absence of such an agreement or where the agreement is not clear, the exclusive right shall be owned jointly by the creators.