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INDUSTRIAL PROPERTY RIGHTS AND THEIR ENFORCEMENT FOR THE SULTANATE OF OMAN

Section 1 Definitions

For the purposes of this Act,

- **“Budapest Treaty”** means the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977, and amended on September 26, 1980
- **“Certificate”** means the title granted to protect a utility model, an industrial design, a layout-design (topography) of integrated circuit, a mark or a geographical indication.
- **“Certification Marks”** means signs or combination of signs capable of designating any specific characteristic, including quality, origin or methods of production, of goods and services and which are used by other persons under the control of the owner of the mark.
- **“Collective Mark”** means any marks that belong to a collectivity, such as a cooperative or an association or federation of industrialists, producers and merchants.
- **“Compulsory License”** means an authorization given by the competent authority to a person, firm or a private or state-owned or state-controlled entity, to exploit a patent, a utility model, a layout-design or an industrial design in Oman without the approval of the right holder.
- **“Decision of the General Council of the WTO of August 30, 2003,”** means the Decision of the General Council of the WTO on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.
- **“Distinctive sign”** means a variety of designations and signs and slogans used by an enterprise to convey, in the course of industrial or commercial activities, a certain identity with respect to the enterprise and the products produced or the services rendered by that enterprise.
- **“Exclusive License”** means a license contract that confers on the licensee and, where it is established expressly therein, on the persons authorized by the licensee, the right to exploit the licensed industrial property right to the exclusion of all other persons (including the right owner).
- **“Geographical Indication”** means an indication that identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- **“Hague Agreement”** means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, as adopted on July 2, 1999.

- **“Industrial Design”** means any composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft, and appeals to and is judged by the eye.
- **“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 an electronic function.
- **“International Classification”** means, as regards patents and utility models, the classification for patents for invention, inventors' certificates, utility models and utility certificates, industrial designs and marks.
- **“Invention”** means an idea of an inventor, which permits in practice the solution to a specific problem in the field of technology. An invention may be, or may relate to, a product or a process.
- **“Layout-Design”** is synonymous with “topography” and means 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.
- **“Madrid Protocol”** means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as signed at Madrid on June 28, 1989.
- **“Mark”** means any sign susceptible of being specifically represented graphically that is capable of distinguishing goods (“trademark”) or services (“service mark”) of one undertaking from those of other undertakings. A mark may, in particular, consist of words (including personal names), designs, letters, colors or combinations of colors, numerals or the shape of goods or their packaging, holograms, geographical indications, sounds, scents and tastes. Slogans, where they are not long enough to be protected by copyright, shall be protected as marks.
- **“Minister”** means the Minister of Commerce and Industry.
- **“Paris Convention”** means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as last revised.
- **“Patent”** means the title granted to protect an invention. It establishes a rebuttable presumption of the validity and enforceability of the right to prevent others from exploiting the claimed invention in Oman.
- **“Patent Cooperation Treaty”** means the Patent Cooperation Treaty, done at Washington on June 19, 1970, amended on September 28, 1979, modified on February 3, 1984, and October 3, 2001.
- **“Patent Law Treaty”** means the Patent Law Treaty adopted at Geneva, on June 2, 2000.

- **“Priority Date”** means the date of the earlier application that serves as the basis for the right of priority provided for in the Paris Convention.
- **“Registrar”** means the Director of the Industrial Property Office, as established by this Law.
- **“Trade Name”** means the name or designation identifying and distinguishing an enterprise.
- **“Washington Treaty”** means the Treaty on Intellectual Property in Respect of Integrated Circuits in Washington, D.C., on May 26, 1989.
- **“WTO”** means the World Trade Organization.
- **“Utility Model”** means a technical creation that consists of a new shape or configuration of an object or of a component of an object that increases its functionality or utility.

TITLE I TECHNICAL CREATIONS

PART III: INDUSTRIAL DESIGNS

Section 19

The protection under this Part does not extend to anything in an industrial design which serves solely to obtain a technical result and to the extent that it leaves no freedom as regards arbitrary features of appearance.

Section 20

1. An industrial design is registrable if it is new.
2. An industrial design shall be new if it does not significantly differ from designs that have been disclosed to the public, anywhere in the world, by publication in tangible form or by use or in any other way, prior to the filing date or, where applicable, the priority date of the application for registration (“known designs”) or from combinations of features of known designs.
3. Sections 3(2)(C) and 7 shall apply mutatis mutandis to industrial designs, except that the period determined in Section 7(1)(B) shall be of six months. Consequently, the filing of the application in Oman before the expiration of the period referred to above shall not be invalidated by reason of any acts accomplished in the interval, in particular, another filing or the putting on sale of copies of the design and such acts cannot give rise to any third-party right or any right of personal possession.
4. Industrial designs that are contrary to public order or morality shall not be registrable.

Section 21

Section 4 shall apply mutatis mutandis to industrial designs.

Section 22

1. The application for registration of an industrial design shall be filed with the Registrar and shall contain a request, drawings, photographs or other adequate graphic representations of the article embodying the industrial design and an indication of the kind of products for which the industrial design is to be used. It may be accompanied by a specimen of the article embodying the industrial design, where the industrial design is two-dimensional. The application shall be subject to the payment of the prescribed application fee.
2. Where the applicant is not the creator, the request shall be accompanied by a statement justifying the applicant's right to the registration of the industrial design.
3. Two (2) or more, up to a maximum of one hundred (100), industrial designs may be the subject of the same application, provided they relate to the same class of the International Classification or to the same set or composition of articles.
4. The application, at the time of filing, may contain a request that the publication of the industrial design, upon registration, be deferred for a period not exceeding 12 months from the date of filing or, if priority is claimed, from the date of priority, of the application.
5. The applicant may withdraw the application at any time during its pendency.

Section 23

1. The Registrar shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt, the application contains indications allowing the identity of the applicant to be established and the required graphic representation of the article embodying the industrial design. Section 9(1)(C) shall apply mutatis mutandis.
2. (A) Where the Registrar finds that the conditions referred to in Subsection 2 hereof are fulfilled, he shall publish in the Official Gazette a notice that he is ready to register the industrial design, publish a reference to the registration and issue to the applicant a certificate of registration of the industrial design; otherwise, he shall refuse the application.

(B) Within 90 days from the publication of the notice referred to in paragraph A of this Subsection, the applicant shall pay the prescribed fee, which shall be prescribed in a manner as to cover the costs of registration, publication and issuance of the certificate of registration, as well as a period of five years of the term of protection. If the fee is not paid timely, the Registrar may concede an extension of ninety days if he is satisfied that the applicant was able to justify the failure to pay the fee timely. Otherwise, the applicant shall be cancelled by the Registrar. There shall be no restoration of cancelled designs.

3. (A) Notwithstanding Subsection 3, where a request has been made under Section 23 (4) for deferment of publication, upon registration of the industrial design, neither the representation of the design nor any file relating to the application shall be open to public inspection. In this case, the Registrar shall publish a mention of the deferment of the publication of the industrial design and information identifying the registered owner, and indicating the filing date of the application, the length of the period for which deferment has been requested and any other prescribed particulars.

(B) The institution of legal proceedings on the basis of a registered industrial design during the period of deferment of publication shall be subject to the condition that the information contained in the Register and in the file relating to the application has been communicated to the person against whom the action is brought.

Section 24

1. An industrial design certificate shall confer on its owner the right to prevent third parties not having the owner's consent from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.
2. Section 11(4)(A)(i) and (5) shall apply mutatis mutandis to registered industrial designs.
3. In accordance with Title IV, the registered owner of an industrial design shall, in addition to any other rights, remedies or actions available to him, have the right to institute court proceedings against any person who infringes the industrial design by performing, without his agreement, any of the acts referred to in subsection (1) or who performs acts which make it likely that infringement will occur.
4. The registration of an industrial design shall be for a period of five years from the filing date of the application for registration. If the owner so requests, according to the Regulations, and upon the payment of the prescribed fee, the registration shall be renewed for two further consecutive periods of five years. A period of grace of six months shall be allowed for the late payment of the renewal fee on payment of the prescribed surcharge, otherwise the registered industrial design shall lapse. There shall be no restoration of lapsed registered industrial designs.

Section 25

The provisions of Section 13 shall apply for mutatis mutandis to industrial designs.

Section 26

The provisions of Section 14 shall apply mutatis mutandis to industrial designs.

PART IV LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

Section 27

1. Protection under this Part may be obtained for layout-designs of integrated circuits if and to the extent that they are original and has not yet been commercially exploited, or has been commercially exploited for not more than two years, anywhere in the world.
2. A layout-design 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-designs and manufacturers of integrated circuits at the time of its creation.
3. A layout-design consisting of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, is original within the meaning of subsection 1.

Section 28

1. The right to layout-design protection shall belong to the creator of the layout-design. It may be assigned or transferred by succession. Where several persons have jointly created a layout-design, the right shall belong to them jointly.
2. Section 4 shall apply, mutatis mutandis, to layout-designs.

Section 29

1. Protection under this Act shall not depend upon whether or not the integrated circuit which incorporates the protected layout-design is itself incorporated in an article. Subject to subsection 2, the protection shall have the effect that the following acts shall be unlawful if performed without the authorization of the right holder:
 - (i) reproducing, whether by incorporation in an integrated circuit or otherwise, the protected layout-design 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 Section 29;
 - (ii) importing, selling or otherwise distributing for commercial purposes the protected layout-design, an integrated circuit in which the protected layout-design is incorporated or an article incorporating such an integrated circuit in so far as it continues to contain an unlawfully reproduced layout-design.

2. The effect of protection of a layout-design under this Act shall not extend to:
 - (i) reproduction of the protected layout-design for private purposes or for the sole purpose of evaluation, analysis, research or teaching; or
 - (ii) the incorporation in an integrated circuit of a layout-design created on the basis of such analysis or evaluation and which is itself original in the meaning of Section 37 or the performance of any of the acts referred to in subsection (1) in respect of that layout-design; or
 - (iii) the performance of any of the acts referred to in subsection (1)(ii) where the act is performed in respect of a protected layout-design, or in respect of an integrated circuit in which such a layout-design is incorporated, that has been put on the market in Oman by, or with the consent of, the right holder, and consequently exhausting the rights of the right holder; or
 - (iv) the performance of any of the acts referred to in subsection (1)(ii) in respect of an integrated circuit incorporating an unlawfully reproduced layout-design 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; however, after the time that such person has received sufficient notice that the layout-design 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; or
 - (v) the performance of any of the acts referred to in Subsection (1)(ii) where the act is performed in respect of an identical layout-design which is original and has been created independently by a third party.

Section 30

1. Without prejudice to the provisions of Subsection 2(iii) of this Section, the Minister shall have the authority, ex officio or at the request of any interested party, of declaring the layout-design certificate rights exhausted, and thus of authorizing others to import the acquiring the registered integrated circuit or the article incorporating such an integrated circuit (“the product”) from another territory when that product is not available in the territory of Oman or is available in the territory of Oman with unreasonably low quality standards or in a quantity that is not sufficient to meet the local demand or at prices that the Minister deems abusive or for any other reason of public interest, including anticompetitive practices, provided that:
 - (i) The product has been put in the channels of commerce in the territory from which it will be imported by the owner of the layout-design certificate or with his consent; and

- (ii) The layout-design in question is protected in the territory from which the product will be imported and is owned by the same person who owns the layout-design certificate in Oman or by a person under his control.
2. The Minister shall, ex officio, or at the request of the right holder, cancel the authorization.
- (A) If the importer fails to fulfill the purpose that justified the Minister's decision to consider the right holder's rights exhausted,
- (B) If the conditions that gave rise to the Minister's decision to consider the right holder's rights exhausted cease to exist, the Minister may, ex officio or at the request of the right holder, cancel the authorization, provided that the legitimate interests of the importer are taken into account, including but not exclusively that the importer will retain the right to commercialize the products that remain on stock.

Section 31

Protection of a layout-design under this Act shall commence:

1. on the date of the first commercial exploitation, anywhere in the world, of the layout-design by, or with the consent of, the right holder, provided an application for protection is filed by the right holder with the Registrar's Office within the time limit referred to in Section 28(2), or
2. on the filing date accorded to the application for the registration of the layout-design filed by the right holder, if the layout-design has not been previously exploited commercially anywhere in the world.

Section 32

1. Applications for the registration of layout-designs shall be in writing and shall be filed with the Registrar's Office. A separate application shall be filed for each layout-design. The application shall:
 - (i) contain a request for registration of the layout-design in the Register of Layout-Designs and a brief and precise designation thereof;
 - (ii) indicate the name, address, nationality and, if different from the address, the habitual residence of the applicant;
 - (iii) be accompanied by the power of attorney appointing the representative of the applicant, if any, and by 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;

- (iv) specify the date of first commercial exploitation of the layout-design anywhere in the world or indicate that such exploitation has not commenced; and
 - (v) provide particulars establishing the right to protection under Section 30.
2. Where the application does not duly comply with the requirements of subsection (2), the Registrar shall notify the applicant of the defects and invite him to correct them within two (2) months. If the defects are corrected within the time limit, the Registrar shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt, the application contained an express or implicit indication that the registration of a layout-design is requested and indications allowing the identity of the applicant to be established and was accompanied by a copy or drawing of the layout-design. Where the latter requirements 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 deemed to be the filing date of the application. The Registrar 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.
 3. Each application for protection of a layout-design shall be subject to the payment of the prescribed fee. If the fee is not paid, the Registrar's Office shall notify the applicant that the application will be deemed not to have been filed unless payment is made within two (2) months from the date of the notification. If the application fee is not paid within that time limit, the application shall be deemed not to have been filed.

Section 33

1. Where the application complies with the requirements of Section 33, the Registrar shall register the layout-design in the Register of Layout-Designs without examination of the originality of the layout design, the applicant's entitlement to protection or the correctness of the facts stated in the application.
2. Any person may consult the Register of Layout Designs and obtain extracts there from, subject to the payment of the prescribed fee.
3. The registration of a layout-design shall be published in the Official Gazette.

Section 34

The provisions of Section 13 shall apply for mutatis mutandis to layout-designs.

Section 35

The provisions of Section 14 shall apply mutatis mutandis to layout-designs.

TITLE III: PROTECTION AGAINST UNFAIR COMPETITION

Section 60

1. The provisions of this Title shall apply independently of, and in addition to, any legislative provisions protecting inventions, utility models, industrial designs, layout-designs, distinctive signs, literary and artistic works and other intellectual property subject matter.

2. (A) In addition to the acts and practices referred to in Articles 61 to 65, any act or practice, in the course of industrial or commercial activities, that is contrary to honest practices shall constitute an act of unfair competition.

(B) An act or practice that is contrary to honest practices, for the purposes of this Title, shall mean at least practices such as breach of contract, breach of confidence and inducement to breach, and includes the acquisition of undisclosed information by third parties who knew, or were grossly negligent in failing to know, that such practices were involved in the acquisition.

An act or practice that is contrary to honest practices, for the purposes of this Title, shall also mean acts of breach of legal duties in general when their purpose or their consequence is to obtain illicit advantages over competitors, such as the breach of environmental or labor law.

(C) Any natural person or legal entity damaged or likely to be damaged by an act of unfair competition shall be entitled to the remedies referred to in Title IV.

Section 61

(1) Any act or practice, in the course of industrial or commercial activities, that causes, or is likely to cause, confusion with respect to another's enterprise or its activities, in particular, the products or services offered by such enterprise, shall constitute an act of unfair competition.

(2) Confusion may, in particular, be caused with respect to

- (i) a trademark, whether registered or not or a trade name.
- (ii) any distinctive sign other than a trademark or a trade name
- (iii) the appearance of a product or the presentation of products or services as well as of the place of business

Section 62

1. Any act or practice, in the course of industrial or commercial activities, that damages, or is likely to damage, the goodwill or reputation of another's enterprise shall constitute an act of unfair competition, regardless of whether such act or practice causes confusion.

2. (A) Damaging another's goodwill or reputation may, in particular, result from the dilution of the goodwill or reputation attached to

- (i) a trademark, whether registered or not;
- (ii) a trade name;
- (iii) any distinctive sign other than a trademark or a trade name;
- (iv) the appearance of a product;
- (v) the presentation of products or services as well as of the place of business;
- (vi) a celebrity or a well-known fictional character.

(B) For the purposes of these provisions, "dilution of goodwill or reputation" means the lessening of the distinctive character or advertising value of a trademark, trade name or other business identifier, the appearance of a product or the presentation of products or services or of a celebrity or well-known fictional character.

Section 63

1. Any act or practice, in the course of industrial or commercial activities, that misleads, or is likely to mislead, the public with respect to an enterprise or its activities, in particular, the products or services offered by such enterprise, shall constitute an act of unfair competition.

2. Misleading may arise out of advertising or promotion and may, in particular, occur with respect to

- (i) the manufacturing process of a product;
- (ii) the suitability of a product or service for a particular purpose;
- (iii) the quality or quantity or other characteristics of products or services;
- (iv) the geographical origin of products or services;
- (v) the conditions on which products or services are offered or provided;
- (vi) the price of products or services or the manner in which it is calculated.

Section 64

1. Any false or unjustifiable allegation, in the course of industrial or commercial activities, that discredits, or is likely to discredit, another's enterprise or its activities, in particular, the products or services offered by such enterprise, shall constitute an act of unfair competition.

2. Discrediting may arise out of advertising or promotion and may, in particular, occur with respect to

- (i) the manufacturing process of a product;
- (ii) the suitability of a product or service for a particular purpose;
- (iii) the quality or quantity or other characteristics of products or services;
- (iv) the conditions on which products or services are offered or provided;
- (v) the price of products or services or the manner in which it is calculated.

Section 65

1. Any act or practice, in the course of industrial or commercial activities, that results in the disclosure, acquisition or use by others of undisclosed information without the consent of the person lawfully in control of that information (hereinafter referred to as “the rightful holder”) and in a manner contrary to honest commercial practices shall constitute an act of unfair competition.

For the purposes of this Section, “a manner contrary to honest commercial practices” shall mean at least practices such as breach of contract, breach of confidence and inducement to breach, and includes the acquisition of undisclosed information by third parties who knew, or were grossly negligent in failing to know, that such practices were involved in the acquisition.

2. For the purposes of this Section, information shall be considered “undisclosed information” if it has secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question or it has commercial value because it is secret and it has been subject to reasonable steps under the circumstances by the person lawfully in control of the information to keep it secret.

3. (A) Any act or practice, in the course of industrial or commercial activities, shall be considered an act of unfair competition if it consists or results in

- (i) an unfair commercial use by a governmental authority of undisclosed test or other data concerning safety and efficacy of the product which have been submitted to that authority as a condition of obtaining approval of the marketing of new pharmaceutical or agricultural chemical products, or
- (ii) the disclosure of such data, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use.

(B) For the purposes of this Subsection, a pharmaceutical product shall be considered new if it contains a chemical entity that has not been previously approved in the territory of Oman for use in a pharmaceutical product; a new agricultural chemical shall be considered new if it contains a chemical entity that has not been previously approved in the territory of Oman for use in an agricultural chemical product.

4. (A) Subsection (4)(a)(i) shall be construed as precluding any governmental agency, without the consent of the person or entity who first obtained marketing approval of a pharmaceutical or agricultural

chemical product in Oman (the originator) from relying on or referring to the undisclosed test data or other undisclosed data submitted by the originator, for the purposes of approving any other product, for at least five (5) years for pharmaceutical products, and ten (10) years for agricultural chemical products, from the date of marketing approval in Oman

(B) The provisions of paragraph (A) of this Subsection shall apply, mutatis mutandis, in the event Oman adopts the practice of granting marketing approval based on evidence of marketing approval granted in another territory.

(C) Where the competent authority of Oman requires or permits, as a condition of granting marketing approval for a pharmaceutical product that includes a chemical entity that has been previously approved for marketing in another pharmaceutical product, the submission of new clinical information that is essential to the approval of a pharmaceutical product, other than information related to bio equivalency, that competent authority shall not, without the consent of the originator, authorize another to market a same or a similar product based on the new clinical information submitted in support of the marketing approval or evidence of the marketing approval based on the new clinical information, for at least three years from the date of marketing approval in Oman.

(D) The provisions of paragraph (C) of this Subsection shall apply, mutatis mutandis, in the event Oman adopts the practice of granting marketing approval based on evidence concerning new clinical information for a product that was previously approved based on that new clinical information in another territory.

(E) Where the originator's product is covered by a patent in force in the territory of Oman, the competent authority, notwithstanding the provisions of this Subsection, but without prejudice to the provisions of paragraph (e), shall not approve another product without the prior consent of the patent owner. If a request of marketing approval that requires or implies reliance on the originator's undisclosed data is submitted by another person during the term of a patent, the competent authority shall inform the patent owner of such a request.

TITLE IV: ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

PART I: INFRINGEMENT PROCEEDINGS

Section 68

1. An infringement of an industrial design registered under this Act shall consist of the performance of any act referred to in Section 25 (2) by a person other than the owner of the industrial design and without his agreement.

2. On the request of the owner of the industrial design, or of an exclusive licensee, or of a non-exclusive licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or failed to do so within ninety days, the Court may grant an injunction to prevent infringement or an imminent infringement, award damages and grant any other remedy provided for in the general law or under this Title.

Section 69

1. An infringement of a geographical indication protected under this Act shall consist of the performance of any act referred to in Section 55 or any use of a geographical indication by a person who has no right to use the geographical indication in accordance with this Act.
2. On the request of any interested person or of any interested group of producers or consumers, or any competent authority under Section 52, the Court may grant an injunction to prevent the unlawful use of the geographical indication, award damages and grant any other remedy provided for in the general law or under this Title.

Section 70

1. An infringement of a layout-design (topography) of an integrated circuit protected under this Act shall consist of the performance of any act referred to in Section 31(1) by a person other than the owner of the layout-design (topography) and without his agreement.
2. On the request of the owner of the layout-design (topography) of an integrated circuit, or of an exclusive licensee, or of a compulsory licensee, or of a non-exclusive licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or failed to do so within ninety days, the Court may grant an injunction to prevent infringement or an imminent infringement, award damages and grant any other remedy provided for in the general law or under this Title.

Section 71

1. The provisions of this Title shall apply to prevent or to remedy any act of unfair competition subject to the provisions of Sections 60 to 65.
2. Where an act under Section 65(4) and (5) is considered by the Court to constitute an act of unfair competition, the Court shall order:
 - (a) the government authority to cancel the marketing approval;
 - (b) the competitor of the undisclosed data holder not to market or to cease to market the products the registration of which has constituted an act of unfair competition because it was based on an authorized reliance of protected undisclosed test data or other data;
 - (c) the government authority to pay adequate damages for the unauthorized disclosure of the data;
 - (d) the competitor of the undisclosed data holder to pay adequate damages for the marketing of the products the registration of which has constituted an act of unfair competition.

Section 72
Time Limits

Civil proceedings under Sections 66 to 71 can be initiated within five years from the date on which the right holder knew or had reasons to know the infringing acts, except in case of infringing use of distinctive signs in bad faith or for unfair competition purposes, for which there will be no time limits to initiate the proceedings.

PART II: PROVISIONAL MEASURES

Section 73

1. The Court shall order, in accordance with the procedure prescribed in the Code of Civil Procedure or similar statute prompt and effective provisional measures to prevent an infringement or unlawful use referred to in Part I of this Title from occurring or to preserve relevant evidence in regard to an alleged infringement.

2. Where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed, the Court shall order provisional measures without giving the other party an opportunity of being heard provided that the applicant has furnished:

- (i) any reasonably available evidence satisfying the Court that the applicant is the right holder and that the applicant's rights are being infringed or that such infringement is imminent, and
- (ii) any security or equivalent assurance required by the Court to protect the defendant and to prevent abuse; such security or equivalent assurance shall be reasonable in view of the circumstances and shall be set so as not to unreasonably deter recourse to such procedures.

3. (A) Where provisional measures have been ordered without having given the other party an opportunity of being heard, the Court shall give the parties affected notice of the decision, at the earliest after the execution of the measures.

(B) Requests for provisional measures without giving the other party an opportunity of being heard shall be acted upon expeditiously and shall, except in exceptional cases, generally be executed within ten days.

4. Where provisional measures have been ordered under Subsections 2 and 3, the defendant may file a request for review with the Court within two (2) weeks from the notification of the decision. In the review proceedings, the Court shall give the parties concerned an opportunity of being heard and shall confirm, modify or revoke the decision within a reasonable period after the notification of the decision.

5. Where the applicant does not initiate court proceedings leading to a decision on the merits of the case within 20 working days or 31 calendar days, whichever is the longer, from the notification of the decision ordering provisional measures or within any other reasonable period determined by the Court in the decision, the Court shall revoke the provisional measures upon the request of the defendant.

6. Where the provisional measures are revoked or where the Court decides on the merits of the case in proceedings under Subsection (5) initiated by the applicant that there has been no infringement or threat of an infringement, the Court shall order the applicant, upon the request of the defendant, to provide the defendant appropriate compensation for any injury caused by the execution of the provisional measures.

7. The measures of this Section aiming at preserving relevant evidence shall also be available before the granting of the pending registration, if the Court so deems necessary. In that event, the applicant shall initiate Court proceedings leading to a decision on the merits of the case 20 working days or 31 calendar days, whichever is the longer, from the publication of the grant of the pending registration.

PART III: EVIDENCE; BURDEN OF PROOF

Section 74

- The Court may, where a party has presented reasonably available evidence sufficient to support the claims and has specified evidence relevant to substantiation of the claims which lies in the control of the opposing party, order that this evidence be produced by the opposing party, subject, in appropriate cases, to conditions which ensure the protection of confidential information.
- In cases in which a party to a proceeding voluntarily and without good reason refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes a procedure relating to an enforcement action, the Court may make preliminary and final determinations, affirmative or negative, on the basis of the information presented to it, including the complaint or the allegation presented by the party adversely affected by the denial of access to information, subject to providing the parties an opportunity to be heard on the allegations or evidence.
- In the event that the Court appoints technical or other experts in civil proceedings concerning the enforcement of intellectual property rights and require that the parties to the litigation bear the costs of such experts, the Court shall seek to ensure that such costs are closely related, inter alia, to the quantity and nature of work to be performed and do not unreasonably deter recourse to such proceedings.

PART IV: DAMAGES; OTHER REMEDIES

Section 75

1. Where damages are awarded in accordance with Sections 66 to 71, the Court shall order the infringer to pay the right holder adequate compensation for the infringement of his intellectual property right.
2. The Court may order the infringer to pay for damages relating to acts of infringement practiced:
 - (i) on the date or subsequent to the date on which public notice, if any, of the application of the registration was given through the Official Gazette; or

- (ii) on the date or subsequent to the date on which the applicant of the registration gave notice to the alleged infringer of the contents of the application; or
- (iii) on the date or subsequent to the date on which the alleged infringer acquired knowledge of the contents of the application.

3. The request for the Court to order the payment of damages under Subsection 2 may be filed only after the title of industrial property right in question is granted.

TITLE V: GENERAL PROVISIONS

Section 94

1. Any change in the ownership of a patent, or a utility model certificate, or the registration of an industrial design, or the registration of a layout-design, or the registration of a mark or collective mark or certification sign, or the registration of a geographical indication, or in the ownership of an application therefor, shall be in writing and shall, at the request of any interested party, to the Registrar, be recorded and, except in the case of an application, published by the Registrar. Except as regards trademarks, such change shall have no effect against third parties until such recording is effected.

4. Any license contract concerning a patent, or a utility model, or a registered industrial design, or a registered layout-design, or a registered mark, or an application therefor, shall be submitted to the Registrar who shall keep its contents confidential but shall record it and publish a reference thereto. Except as regards trademarks, the license contract shall have no effect against third parties until such recording is effected.

5. The Registrar shall refuse to record a contract for the transfer of ownership (assignment) or a license contract when it decides that the contract concerning the right in question contains one or more clauses that are abusive or anti-competitive or in any manner restrain trade or are likely to have any of those effects. The Registrar shall hear the allegations of the parties to the contract, if one or both so request. The parties to the contract may submit evidence that is pertinent. Any of the parties or both may appeal from the Registrar's decision to the Court within two (2) months from the date on which the Parties were notified of the Registrar's decision to refuse to record the contract.

6. (A) For the purposes of subsection 5, any limitations imposed on the assignee or the licensee that do not derive from the rights conferred by the registration of the licensed right, and that are not necessary for the safeguard of that right shall be deemed abusive or, in the event that they have anti-competitive effects, anti-competitive.

(B) Notwithstanding the provisions of paragraph A of this subsection, the license contracts may provide for the following limitations:

- (i) delimitation of the scope, geographical area and period of use;

- (ii) conditions required for the efficient control of the quality of goods and services, subject to the provisions of Section 44;
- (iii) obligation for the licensee to refrain from all acts that may cause damage to the reputation of the right owner or to the subject matter of the right.

7. Where the right that is the subject of an assignment or a license contract is invalidated after the contract becomes effective, the contract will cease immediately to produce effects. The parties may recover totally or partially any payments or other benefits paid under the contract, unless the party in favor of whom those payments or other benefits were paid has benefited in good faith from the contract and the invalidation does not impair or annul those benefits.

8. The Public Prosecution Office may initiate legal action ex officio with respect to the offenses described in this Title, without the need for a formal complaint by a private party or right holder.

Section 95

1. Where an applicant's ordinary residence or principal place of business is outside Oman, he shall be represented by a legal practitioner resident and practicing in Oman. That agent shall receive powers to receive communications and service as regards any process or proceeding, either judicial or other, in Oman, under this Act, relating to the application or title in question.

2. (A) An assignee of an application, an applicant, owner or other interested person may act himself before the Registrar for the following procedures:

- (i) the filing of an application for the purposes of the filing date;
- (ii) the mere payment of a fee;
- (iii) any other procedure as prescribed in the Regulations;
- (iv) the issue of a receipt or notification by the Registrar in respect of any procedure referred to in provisos (i) to (iii).

3. A maintenance fee may be paid by any person.

Section 96

1. The Industrial Property Registry shall maintain separate Registers for patents, utility models, industrial designs, layout designs, marks, collective marks, certification marks and geographical indications. Collective marks and certification signs shall be registered in a special section of the Register of Marks. All the recordings provided for in this Act shall be effected in the said Registers.

The Registers may be consulted by any person, and any person may obtain extracts therefrom, under the conditions prescribed in the Regulations.

2. Right holders may signal ownership of the subject of protection under this Act by means of particular signs.

Section 97

1. The Registrar may, subject to any provision in the Regulations, correct any error of translation or transcription, clerical error or mistake in any application or document filed with the Industrial Property Registry or in any recording effected pursuant to this Act or the Regulations. Substantive errors, however, may only be modified by the Court, under due process. Substantive errors are those that, if modified, will affect the rights conferred.

2. Unless otherwise provided in this Act, if the Registrar is satisfied that the circumstances justify it, he may, upon receiving a written request, extend the time for doing any act or taking any proceeding under this Act and the Regulations, upon notice to the parties concerned and upon such terms as he may direct. The extension may be granted though the time for doing the act or taking the proceeding has expired.

Section 98

Any decision taken by the Registrar under this Act, in particular the grant of a patent or a utility model certificate or the registration of an industrial design or of a layout-design or of a mark or collective mark or certification sign or of a geographical indication, or the refusal of an application for such a grant or registration, may be the subject of an appeal by any interested party before the Court and such appeal shall be filed within sixty (60) days of the date of the decision.

Any decision taken by the Minister under this Act, in particular the grant of a compulsory license, and his decision relating to the remuneration provided in respect of a compulsory license, under Sections 13, 27 and 36, as well as the transfer of title, under Section 14, may be the subject of an appeal by any interested party before the Court and such appeal shall be filed within sixty (60) days of the date of the decision. These provisions also apply to all final decisions made by the competent authority under Section 65(4), (5) and (6).

SECTION 99

(A) Final judicial decisions and administrative rulings of general application pertaining to the enforcement of industrial property rights shall be in writing and shall state any relevant findings of fact and the reasoning or the legal basis on which the decisions or rulings are based.

(B) Such decisions or rulings shall be published.

Section 100

1. Unless otherwise provided, the provisions of this Act shall be effective as from the date established in accordance with the Royal Decree promulgating this Act and apply to all applications that are pending on the date of their entry into force. However, any acts definitively performed by the Registrar relating to pending applications, such as the final examination of applications, and which have already produced effects, shall be maintained.

2. The provisions of subsection (1) shall apply mutatis mutandis to enforcement. All decisions by the Court, whether final or interlocutory, that has produced effects, shall be maintained.

3. Where this Act in any way expands rights or creates new rights, including extension of terms of protection, existing registrations shall benefit from such expansion or creation. But where this Act reduces or eliminates rights, existing registrations shall not be affected and shall continue existing as if this Act had not been enacted, except for the provisions on enforcement, which shall apply in accordance with subsection 2.

4. Where this Act provides for new systems of classification, existing registrations shall be reclassified only at the time of their renewal, if any. The procedures and the fees for the reclassification of existing registrations shall be established in the Regulations.