

INTEGRATED CIRCUITS (AMENDMENT) BILL, 2023

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INTEGRATED CIRCUITS (AMENDMENT) BILL, 2023

A BILL FOR AN ACT TO AMEND THE INTEGRATED CIRCUITS ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the Integrated Circuits (Amendment) Act, 2015.
- (2) This Act shall come into operation on such day as the Minister may, by notice published in the Gazette, appointed for the coming into operation of the principal Act.

2. Amendment of section 2 of the principal Act.

The principal Act is amended by the deletion and substitution of the following definition —

“**Registrar**” means the Registrar of the Intellectual Property Office and any reference to the Registrar shall be construed as including a reference to any officer discharging the functions of the Registrar;”.

3. Repeal and replacement of section 16 of the principal Act.

Section 16 of the principal Act is repealed and replaced as follows —

“ **16. Infringement and enforcement of right.**

- (1) Proceedings for specific relief relating to the infringement of any right under this Act may be instituted in the Supreme Court by —
 - (a) the right holder; or
 - (b) by a licensee of the right holder where the licensee has requested that the right holder institute proceedings

and the right holder has refused or failed to do so within a reasonable time.

- (2) In proceedings instituted pursuant to subsection (1), the Supreme Court may —
 - (a) grant an injunction to prevent infringement or an imminent infringement;
 - (b) award damages taking into account the pecuniary and non-pecuniary loss suffered by the right holder;
 - (c) order the forfeiture, seizure or destruction of any integrated circuit which contains a layout design which infringes upon the rights accorded by this Act to a right holder;
 - (d) order that any integrated circuit which contains a layout design which infringes upon the rights accorded by this Act to a right holder, be delivered up to the right holder, the licensee or to such other person as the Court may direct; and
 - (e) grant any other remedy available to the right holder or licensee under the law.
- (3) Proceedings under subsection (2) may be brought only after an application for registration of the layout–design has been made.”.

4. Insertion of new sections 16A and 16B into the principal Act.

The principal Act is amended by the insertion immediately after section 116 of the following new sections —

“ **16A. Power of Court to order certain information.**

- (1) Where legal proceedings have been instituted by a right holder or licensee pursuant to section 16(1) and one or more defendants to such proceedings is alleged to have engaged in acts which infringe on a commercial scale, the rights granted under this Act to the right holder, the Court may, on the application of the right holder or licensee, order any or all of the defendants, a financial services provider or any other person within the jurisdiction of the court, to disclose to the right holder, the licensee or the Court, the banking or other commercial information the defendant or defendants.
- (2) Where in any proceeding instituted by a right holder or licensee pursuant to section 16(1) the Court has adjudged that one or more of the defendants to such proceedings has engaged in conduct which infringes a right granted under this

Act to the right holder, the Court may order any or all of the defendants to provide to the right holder, the licensee or the Court, information, on the origin and distribution of networks of the integrated circuits in issue.

16B. Right holder may request Comptroller of Customs to treat infringing imports as prohibited goods.

- (1) Where an integrated circuit containing a layout design which infringes a right granted to a right holder under this Act is being imported into the Bahamas, the right holder may give notice in writing to the Comptroller of Customs requesting the Comptroller to treat the integrated circuits in issue as prohibited goods under the Customs Management Act.
- (2) The Comptroller of Customs shall not be obliged to act in respect or a notice presented in accordance with subsection (1), unless the Comptroller is satisfied that the party presenting the Notice has presented information which sufficiently demonstrates that it is more likely than not that the integrated circuits in issue do in fact infringe a right granted to the right holder under this Act.
- (3) A licensee may give notice to the Comptroller under subsection 1 where the licensee has requested the right holder to give such notice to the Comptroller and the right holder has refused or failed to do so within a reasonable time.”

OBJECTS AND REASONS

The Bill seeks to amend the Integrated Circuits Act, 2015.

Clause 2 of the Bill seeks to provide for an amended definition of Registrar.

Clause 3 of the Bill seeks to repeal and replace section 16 of the Act to further empower the Court in infringement proceedings.

Clause 4 of the Bill seeks to provide for a new section 16A to empower the Court to order certain information, on application of the right holder, and for a new section 16B to permit a right holder to request the Comptroller of Customs to treat infringing imports as prohibited goods.