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## **Intellectual Property - Taiwan** **Copyright infringement of circuit layouts**

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On January 6 2016 the IP Court delivered a judgment<sup>(1)</sup> regarding copyright infringement of circuit layouts. The court held that in investigating whether the circuit layout of an actual product constitutes copyright infringement, the comparison method used for pictorial and graphical works should be employed to determine whether the defendant has reproduced the plaintiff's circuit diagram and layout. However, the functions and technical provisions of the circuit and layout fall within the scope of patents and are immaterial to comparisons in copyright cases.

The plaintiff claimed copyright of the internal circuit diagram and layout of its product. The defendant was accused of reproducing the plaintiff's circuit diagram and layout onto the disputed product, thereby infringing the plaintiff's copyright. The court first described the distinctions among the three relevant types of pictorial and graphical works:

- A 'circuit diagram' is a depiction of the interconnecting relationships between electronic components created using circuit design software, whereas the said depiction was a schematic representation only.
- A 'circuit board layout' is derived from the interconnecting relationships between electronic components and the actual size and number of layers of the circuit board as disclosed in the circuit diagram. It is depicted as a two-dimensional (single layer) or three-dimensional (double or multi-layer) configuration that displays the allocation of actual electronic components with cable connections and routing.
- An 'integrated circuit layout' is a two-dimensional or three-dimensional design of how transistors, capacitors, other electronic components and interconnecting leads are integrated onto semi-conducting material.

The court held that in the assessment report presented by the plaintiff, all references to circuit layouts in the comparison pertained to components or parts installed onto the circuit boards, not to any of the pictorial and graphical works. In other words, while the plaintiff's assessment report referred to its objects of comparison as circuit layouts, the assessments were not performed on any pictorial and graphical works. In fact, the assessment report concluded only that the functions of the plaintiff's product and the disputed product were deemed the same, and did not refer to the disputed product as constituting any form of direct, indirect, permanent or temporary reproduction by means of printing, copying, audio recording, video recording, photography, written statements or any other methods. Further, the court found that circuit board size, electronic component arrangement and allocation of parts were all at variance, and that no similarities between the circuit layouts could be identified. Therefore, the court determined, based solely on the conclusion presented in the assessment report claiming similarity of function, that insufficient evidence could be found to support the claim that the defendant's circuit layout of the disputed product involved the reproduction of the plaintiff's pictorial and graphical works.

Pursuant to these findings, the court held that the defendant had not infringed the plaintiff's copyright. The plaintiff's claim was subsequently dismissed.

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