

LAW ON PROTECTION OF TOPOGRAPHIES OF INTEGRATED CIRCUITS⁷

I. BASIC PROVISIONS

Article 1

This Law regulates the grant of protection of topographies of integrated circuits.

Article 2

For the purposes of this Law

1. “An integrated Circuit” shall mean the final or intermediate form of any product intended to perform an electronic function and where there are elements, where at least one is active, and one or all of intermediates are integrally established in the part of material or of the part of material, i.e. in and on the part of material.

2. “The topography of integrated circuit” (hereinafter: topography) shall mean the three-dimensional disposition however expressed of the elements, where at least one is active, and intermediates in the integrated circuits, or those three-dimensional disposition prepared for production of an integrated circuits, and

3. “Commercial exploitation” of topography means the manufacture, sale, rental, leasing or any other method of commercial distribution directly relating to a topography or integrated circuit, produced on the basis of the respective topography.

II. SUBJECTS OF PROTECTION

Article 3

The right to protection of a topography shall apply in a favor of its creator. When a topography is a product of several creators, the said right shall apply in favor of all those persons.

Where the topography is created in the course of the creator’s employment or on the basis of order, the right to protection shall apply in favor of creator’s employer or person placing the order, unless the terms of employment or order provide to the contrary.

Article 4

Foreign persons, referring the protection of topography, are entitled with the same rights as domestic persons, if it is according to the international treaties and conventions or if it arises by the principle of reciprocity.

The person that is referred to the principle of reciprocity has to prove the existence of reciprocity.

III. COMMON REGULATIONS FOR THE PROCEDURE OF PROTECTION

Article 5

Industrial Property Protection Office (hereinafter: IPPO) performs the grants and protection of topography.

Article 6

The IPPO passes decisions in the administrative procedure for granting and protection of topography in the first level.

The appeal can be lodged to the Minister of Development against the decision passed by the IPPO.

Article 7

The IPPO shall maintain the Register of applied topographies and the Register of protected topographies

The Registers referred to in Paragraph 1 shall be opened to the public.

Article 8

A topography shall be protected if it is original.

A topography is considered to be original if it is the result of its creator's own intellectual effort and was not common place in the semiconductor industry when it was created.

Where a topography consists of elements that are common place in the respective industry, only the combination of this elements shall be protected, provided that it fulfills the conditions relating to originality, as provided in Paragraph 2.

IV. CONTENTS, TERMS AND LIMITATION OF THE RIGHT

1. Contents of the Right

Article 9

The holder of the protected topography shall be granted exclusive rights of commercial exploitation, including the right to authorize or prohibited any of the following acts:

- reproduction of the topography by any means or in any form;
- importation, sale or other form of distribution of the topography or integrated circuit incorporating the respective topography or products that include integrated circuit incorporating the respective topography.

The exclusive rights referred to in Paragraph 1 shall not extend to any concept, process, system or technical embodied in the topography other than the topography itself.

2. Terms of the Right

Article 10

A topography shall be protected when it is entered into the Register of topographies.

The exclusive rights shall come into existence for the holder of protected topography on the earlier of the following dates:

- the date of filling of application in accordance with Article 12; or
- the date when the respective topography was first commercially exploited anywhere in the world.

The exclusive rights shall come to an end ten years from the earlier of the following dates:

- the end of the calendar year in which the topography is first commercially exploited anywhere in the world; or
- the end of the calendar year in which the application has been filed in due form.

The exclusive rights shall expire before the period defined in Paragraph 3, if the respective fees are not paid or if the right holder of the protected topography renounces protections in writing.

If a topography has not been commercially exploited, the exclusive rights shall expire after 15 years from its fixation or encoding.

Within the term of protection, the right holder is entitled to mark the respective integrated circuit with a capital "T".

3. Limitation of the Right

Article 11

An application can not be filed after the lapse of two years from the date when a topography was first commercially exploited.

V. PROCEDURE FOR PROTECTION AND REGISTRATION

1. An Application

Article 12

The procedure for the registration for the right for protection shall commence with a request relating to the entry into register, which shall be accompanied by all prescribe items (hereinafter: application).

The application shall contain the items for the name of the applicant and the creator, images relating to the respective topography, accompanied by the mention of their sequences, an abstract comprising the characteristics of the electronic function or functions of a integrated circuit, manufactured on the basis of the protected topography, if the topography has already been commercially exploited, a statement in writing relating to the date when the respective topography was first commercially exploited.

A separate application shall be filed for each topography.

The Minister of Development shall issue regulations specifying in greater detail the contents of application.

2. Examine of the Application

Article 13

The Office shall examine whether the application fulfills the conditions relating to the entry of the register of topographies as specified of the Article 12 of this Law.

The request shall be rejected if the application does not fulfilled the said conditions.

If the application fulfilled the conditions stated in the Article 12 of this Law partially, the Office shall invite the applicant to amend the application within the time limit of two months. If the applicant fails to reply in due time, the application shall be deemed to be withdrawn.

If the application fulfills all the conditions of the Article 12 of this Law, it shall be entered in the Register of Topographies and the applicant shall be issued a certificate relating to the entry in the Register.

The entry in the respective Register shall be published in the official Bulletin of the Office.

VI. INVALIDATION OF THE REGISTRATION

Article 14

The registration is invalidated if it is established that:

- the respective topography is not original; or
- the application has not been field by a natural or legal person who is entitled to the right to protection; or
- the application has been field after the date set out in Article 10(5) or Article 11 of this Law; or
- images to relating topography can not make a possibility of its identification.

VII. INFRINGEMENT OF THE RIGHT AND COMPENSATION OF THE DAMAGE

1. Infringement of the Right

Article 15

A person whose rights have been infringed may, in addition to damages, request that the person infringing his right be prohibited from carrying on the acts giving rise to violation.

Any person who infringes the rights of protection of a protected topography shall be liable for any damage (thus caused) in accordance with a general principle governing compensation for damage.

The following cases shall not be considered an infringement of a rights of protection:

- reproduction of a protected topography for non commercial purposes; or
- reproduction of a protected topography with a purpose to analyze or evaluate its concept, processes, systems and technics, embodied in topography, or for research or educational purposes; or
- commercial exploitation of a new topography which has, however, been created on the basis of analyzes and evaluation of protected topography, but is considered to be original and the result of its creator's own intellectual effort and is not common place in the semiconductor industry.

The provision of the Paragraph 1 shall apply also to the successors in title of the person referred to in Paragraph 1.

2. Compensation of the Damage

Article 16

A person who commercially exploits an integrated circuit incorporating the protected topography, and does not know, or has no reasonable grounds to believe that the topography of the product is protected shall not be prevented from commercially exploiting that integrated circuit.

Compensation, the amount of which depends on the scope of commercial exploitation of the protected topography, may be claimed from the person referred to in Paragraph 1. by the right holder of the protected topography from the date when the person referred to in Paragraph 1. has known, or has had reasonable grounds to believe that the topography is protected.

The amount of compensation under Paragraph 2. shall be agreed upon between the right holder of the protected topography and the person referred to in Paragraph 1. If no agreement is reached, the competent court shall establish the amount of compensation.

The provisions of Paragraph 2. shall apply also to the successors in title of the person referred to in Paragraph 2.

The right of commercial exploitation is limited to importation, sale or distribution of the products of integrated circuits or other products incorporating the respective topography, and this right applies to a topography or products that were on hand at the time when the claim under Paragraph 2. was received.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 17

Pursuant to the Law, only topographies which have been creating after the date when this Law entered into force may be protected.

Article 18

The provisions of representation of foreigners, nonavailability of unpublished publications, receipt of application, entry of data and changes in the register, invalidation of rights, time limits for infringement action, transfer of rights, license, representation of the act of industrial property (Official Gazette of the Republic of Macedonia No. 42/93) shall apply mutatis mutandis.

Article 19

Regulations of Article 12 shall be published no later than within 6 months following the date when this Law enters into force.

Article 20

This Law shall enter into force on the 8th day following its publication in the Official Gazette of the Republic of Macedonia.