

The Law of the Republic of Azerbaijan on Legal Protection of Topographies of Integrated Circuits

This Law regulates the relations deriving from the creation, legal protection and use of topographies of integrated circuits in the territory of the Republic of Azerbaijan.

Chapter I. General Provisions

Article 1. Main definitions

1.0. The main definitions used in this Law shall have the following meaning:

1.0.1. integrated circuits (hereinafter referred to as “IC”)- shall mean electronic product entirely or partially performing functions of certain electronic circuit and consisting of the elements and inter-elementary connections made in inseparable form on the surface and (or) volume of a layer.

1.0.2. Topography of IC - shall mean a spatial geometric arrangement, reflected by a layer of elements and inter-elementary connections of an integrated circuit;

1.0.3. Commercial use– shall mean selling, rent or other methods of commercial distribution or offer for the same purposes;

1.0.4. The right holder of the topography of IC – shall mean an author, his successor as well as individual or legal entity who obtained the exclusive property rights on the legal or contractual basis;

1.0.5. Protected topography of IC – shall mean a topography specified by this Law and meeting the protection requirements.

Article 2. Legislation of the Republic of Azerbaijan on protection of topographies of IC

2.1. The legislation of the Republic of Azerbaijan on protection of topographies of IC consists of this Law, other relevant normative legal acts and international agreements to which the Republic of Azerbaijan is a party.

Article 3. Application field of the Law

This Law applies to the creator of IC topographies (hereinafter referred as topographies), individuals and legal entities of the Republic of Azerbaijan, the stateless persons having permanent residence in the Republic of Azerbaijan and foreigners engaged in creation, as well as using IC topographies or entitled to the rights to topographies in the Republic of Azerbaijan.

Chapter II. Legal protection of topographies and the rights to topographies

Article 4. The subject matter and terms of legal protection of topographies

4.1. The legal protection of topographies provided for by this Law applies only to original topographies.

4.2. A topography created through author's creativity shall be considered to be original, unless the inverse is proved.

4.3. Legal protection does not apply to a topography consisting of the elements and collection of connections which are commonplace among creators and manufacturers of IC at the date of its creation; except for the cases the collection of elements is entirely original.

4.4. Legal protection provided for by this Law does not apply to ideas, methods, systems, technologies, or codified information, that may be used in topography.

Article 5. Rights of foreigners and foreign legal entities

According to the international agreements in the field of legal protection of topographies to which the Republic of Azerbaijan is a party, foreigners and foreign legal entities have the same rights as those provided for the citizens and legal entities of the Republic of Azerbaijan by this Law.

Article 6. Authorship of topography

6.1. A natural person created a topography as a result of creativity shall be considered to be an author of the topography.

6.2. If the topography is created through joint labor of several natural persons, each such person shall be considered to be an author of the topography.

6.3. Authorship of the topography cannot be alienated and protection of copyright by law is not limited in time.

6.4. Those natural persons who only provided technical, organizational or material assistance to the author or who only enabled legalization of the rights to use the topography without any contribution of a personal creativity shall not be considered to be authors of topography.

Article 7. Property right to topography

7.1. An author or other right holder of topography shall have the exclusive right to use topography, except for the cases provided for in Article 10 of this Law.

7.2. The exclusive right to use the topography constitutes the right to perform, permit or prohibit execution of the following:

7.2.1. To produce IC of the same topography;

7.2.2. To distribute IC of the same topography;

7.3. If the rights to topography belong to several authors or other right holders, the rules of exercising of these rights shall be regulated by the agreement concluded among them.

7.4. The following acts shall be considered to be an infringement of the exclusive right to use the topography if performed without the authorization of the author or other right holder:

7.4.1 Reproduction of the whole or the part of the topography by incorporation in an integrated circuit or in any other manner, except where the reproduced part is not original;

7.4.2 Application, importation, offer for sale, sale and any other form of placing on the market of the topography or of an integrated circuit consisting of the topography.

Article 8. Transfer of the property rights to topography to other natural persons or legal entities

8.1. The property rights to topography shall be entirely or partly transferred to other individuals and legal entities based on the agreement and inherited in the manner specified by the legislation.

8.2. An agreement on transfer of property rights to topography shall be concluded in writing and the following shall be specified therein;

8.2.1. the scope and the methods of the use of topography;

8.2.2. the amount and the conditions of payment;

8.2.3. the term of the agreement.

8.3. Unless the agreement provides for no terms on conditions of the use of the topography, it may be deemed concluded at such conditions which the parties deem important for reaching their goals.

8.4. Unless the period of the use of topography is provided in the agreement, an author or other right holder may, after five years from the date signing of the agreement, dissolve the agreement, by notifying the other party on dissolution of the agreement in writing six months prior to the dissolution.

8.5. The partial transfer of property rights is accepted, unless otherwise provided by the agreement.

Article 9. Property rights to topography created while carrying out the official duties and on the basis of the agreement signed with the client

9.1 The property rights to topography created while carrying out the official duties or assignments of the employer shall belong to the employer, unless otherwise provided for by the contract concluded between the author and the employer.

9.2. The amount and conditions of payment of remuneration to an author are determined by the agreement concluded between the author and employer.

9.3. The property rights to topography created on the basis of the agreement concluded between the client (not an employer) and the author shall belong to the customer, unless otherwise provided in the agreement.

Article 10. Actions not infringing the exclusive rights to the use of topography

10.1. The following actions are not considered as infringements of the exclusive rights to the use of topography:

10.1.1. refunding money, for each IC or information, by the IC user who legally purchased IC or the product consisting of IC and who was not aware of the production and distribution of the IC or information with the infringement of the exclusive rights to topography, upon getting a relevant notification from the topography right holder;

10.1.2. Non-commercial use for private, valuation, analytic, research or educational purposes;

10.1.3. Distribution of IC incorporating a protected topography lawfully placed on the market.

10.2. The actions specified in Article 7.4 of this Law and performed with regard to use of the identical, original topography created independently by another author shall not be considered to be an infringement of exclusive rights to topography.

Article 11. Registration and notification

11.1. The author and other holder of exclusive rights to topography or his representative may voluntarily register the topography with the relevant executive authority within the protection period of topography, in the manner specified in the legislation.

11.2. A certificate on the registration of the topography shall be issued subject to the positive results of the expert examination carried out on the basis of the relevant application.

11.3. The registered topography shall be entered into the State Topography Register and the information on the registration shall be officially published.

11.4. The rules of registration of the topography, issuance of the certificate, the list of the materials and documents attached to the application for the registration of topography shall be determined by the relevant executive authority.

11.5. The agreement on full transfer of the property rights to registered topography to another natural person or legal entity shall be registered with the relevant executive authority.

11.6. The agreement on granting of the property rights to topography to another natural person or legal entity may be registered with the relevant executive authority subject to the agreement of the parties.

11.7. Registration of the agreements on granting or succession of the property rights to topography in the manner specified by the law, and performance of the relevant acts shall be made with the to payment of the state fee in the manner specified by the law.

11.8. A claimant shall be liable for genuineness of the information entered into the State Topography Register and such information shall be deemed true, unless otherwise is proved.

11.9. In order to advertise their rights an author of topography or his successor may specify block letter (T), the starting date for protection of the exclusive rights to of topography and surname and (or) the name of the right holder in the protected topography or information consisting of this kind of topography .

Article 12. Protection period of the exclusive rights to topography

12.1. The exceptional rights on use of topography shall be in force within 10 years.

12.2. The effective date of the exclusive rights to topography shall start on the earliest of the following dates:

12.2.1. the date of the first use of the topography (the earliest date of registration of the commercial use of the topography or an integrated circuit incorporating the topography anywhere in the world);

12.2.2. the registration date of the topography.

12.3. In case of existence of the identical, original topography created independently by another author, the overall protection period of the exclusive rights on the use of topography shall not exceed 10 years.

Article 13. Protection of the rights to topography

13.1. An author or another right holder of topography as well as the relevant executive authority are entitled to demand the ceasing of the actions infringing or threatening to infringe the rights to topography.

13.2. Production and (or) distribution of such IC which result the infringement of the rights to topography or product consisting of such kind of IC shall be considered as pirate topography copies.

13.3. An author of the topography or another right holder may apply to court in the specified manner for protection of their rights.

13.4. A court while considering the disputes relating to the rights to topography in addition to the general remedies of civil protection, and recognition of the rights, restoration of the condition existed prior to infringement of the rights and cessation of the actions infringing or threatening to infringe the rights and payment of damages can apply the following measures upon the request of the claimant:

13.4.1. deduction of the profit of the infringer gained as a result of infringement of the rights to topography for reimbursement of the damage;

13.4.2. payment of compensation from 220 Manats up to 5500 Manats instead of reimbursement of the damage or deduction of the profit.

13.5. 10 percent of the amount deducted from the infringer in claimant's favor as payment of the damages in accordance with the court decision, shall be entered to the state budget, or the legislation may determine the other payments to be taken instead of such sum.

13.6. The court may decide on destruction of the copies of IC unlawfully produced and products incorporating such ICs, as well as the materials and equipment used for their production, or transfer either for the benefit of the State or the plaintiff, at his request as reimbursement for the damages.

Chapter III. Final Provisions

Article 14. Protection of the rights to topography abroad

An author of topography or other right holder may ask for ensuring the protection of their topography rights abroad in the manner specified by the legislation. Charges in connection with that shall be disbursed by the applicant or other individual or legal entity on the basis of the contract concluded with him.

Article 15. Entering of the Law into force

This Law shall enter into force from the date of publication.

The President of the Republic of Azerbaijan

Heydar ALIYEV.

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