

LAW ON THE TOPOGRAPHY OF INTEGRATED CIRCUITS

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CHAPTER ONE GENERAL PROVISIONS

Subject Matter

Art. 1. This law is to arrange the conditions and the procedure for registration of the topography of integrated circuits, hereinafter referred to as topography, the rights stemming from its registration and the protection of those rights.

Scope of Application

Art. 2.(1) This law shall apply to Bulgarian natural persons and legal entities as well as to foreign natural persons and legal entities from states which are parties to international treaties to which the Republic of Bulgaria is a party.

(2) This law shall apply to foreign natural persons and legal entities from other states at the conditions of reciprocity which shall be assessed by the Patent Office.

Object of Protection

Art. 3.(1) Object of protection is an original topography which is the result of its creators' own intellectual efforts and which is not commonplace among the creators of topographies and manufacturers of integrated circuits at the time of its creation.

(2) Where the topography consists of a combination of known elements and interconnections between them, it shall be protected only if it fulfills the conditions of [para 1](#) above.

(3) The legal protection of a topography under this law shall not extend to the technologies for manufacture of the integrated circuit in which the topography is implemented as well as to the information stored on it.

Representation

Art. 4. (1) Any person who is entitled to undertake acts at the Patent Office in accordance with this law may perform those acts personally or through a local industrial property representative.

(2) Persons under [para 1](#) above who do not reside or do not have their registered office in the Republic of Bulgaria are obliged to perform acts before the Patent Office through a local industrial property representative.

Fees

Art. 5. The Patent Office collects fees for: filing, registration, publication of the registration, record of an assignment and other changes in the legal status and their publication, record of a license contract and publication of the record, record of termination of a license and publication of that, access of third parties to the dossier, changes in the name and address of the owner, extension of time limits, information and extraction from the State Register of the Topographies, correction of technical errors made by the applicant, issue of duplicates at rates fixed in a Tariff approved by the Council of Ministers.

Dossier

Art. 6.(1) The Patent Office shall keep a dossier for any topography that includes the whole documentation relating to the registration and any subsequent records.

(2) Before the registration, the dossier shall only be accessible to the applicant, to his representative or to a person explicitly authorized by the applicant.

(3) After the registration, the Patent Office shall allow access to the dossier with no right to copy the documents therein. The order for giving access to the dossier shall be regulated by the President of the Patent Office.

(4) The Patent Office shall not make available to the public the material identifying the topography or these parts of it which have been qualified by its owner as a trade secret except upon a court order to persons involved in a litigation concerning validity of the registration or infringement of the exclusive rights.

State Register of the Topographies

Art. 7. The State Register of the Topographies contains data concerning all registered topographies and all subsequent changes with respect to them.

Access to the State Register of Topographies

Art. 8. The State Register of the Topographies is available to the public. Any one may require information or an excerpt from the content of the Register.

Publications in the Official Bulletin of the Patent Office

Art. 9. The Patent Office shall publish all registered topographies and any subsequent changes relating thereto in its Official Bulletin.

CHAPTER TWO LEGAL PROTECTION

Acquisition of Right to Topography

Art. 10.(1) The right to a topography shall be acquired by virtue of its registration at the Patent Office as from the date according to [Art. 14, para 1](#).

(2) The right to the topography is exclusive.

Right to Apply

Art. 11.(1) The right to apply shall belong to a person who has created the topography. Where the right to apply belongs to several persons it is exercised by them jointly. The refusal of one or several of the persons to participate in the process of filing shall not be an obstacle to the rest of them. The refusal must be in writing.

(2) In case of a service topography according to [Art. 12, para 1](#), the right to apply shall belong to the employer or to the person who has ordered the creation of the topography.

(3) The right to apply according to [para 2](#) moves to the creator of the topography, if the employer or the person who has ordered the creation of the topography does not file an application

within three - month period as from the written notification for the creation of the topography, unless agreed otherwise.

(4) The right to apply may belong to the employer, or to the person who has ordered the creation of the topography respectively, and to the creator of the topography jointly, if it is agreed.

(5) The right to apply belongs also to the successors in title of the person referred to in [paras 1 to 4](#) above.

(6) The applicant shall be regarded as someone who has the right to apply until something else is established by court proceedings.

Service Topography

Art. 12.(1) The topography is a service topography where it has been created in the course of performing of someone's duties stemming from employment or from order contract, unless something else has been agreed between the parties in writing.

(2) The creator of a service topography has right to additional remuneration.

(3) The additional remuneration may be fixed as a part of the incomes gained from the exploitation of the topography, or as one-time sum or in any other way.

(4) Where the remuneration fixed as on-time sum obviously is not in proportion with the incomes gained from the exploitation of the topography, the creator of the service topography shall have a right to demand an increase of the remuneration. If the parties can not come to an agreement, the dispute shall be settled by the court under equity.

Right to Registration

Art. 13. The right to registration belongs to the person who has the right to apply in accordance with [Art. 11](#).

Duration of Protection

Art. 14.(1) The protection of a topography shall be effective as from:

1. the date of the first commercial exploitation of the topography by the applicant anywhere in the world provided that an application has been duly filed with the Patent Office within two years after this date; or

2. the date of filing of an application with the Patent Office in accordance with [Art. 22, para 2](#) below provided that the topography has not yet been commercially exploited or has only been exploited secretly.

(2) The protection shall be terminated ten years after the end of the calendar year during which it has become effective in accordance with [para 1](#) above.

Contents of Exclusive Right to Topography

Art. 15.(1) The right to the topography covers the right of the owner to exploit the topography, to dispose of it and to prohibit third parties to exploit it in the course of their commercial activities without his consent.

(2) Commercial exploitation means reproduction, sale, exchange, rent or lend, import or export, or any other way of commercial distribution, as well as an offer for such distribution of the topography or of an product in which it is incorporated.

(3) The exclusive right shall be effective with respect to third scrupulous parties as from the date of publication of the registration of the topography in the Official Bulletin of the Patent Office.

Co-ownership of Right to Topography

Art. 16.(1) The right to the topography may belong to two or more persons.

(2) Any co-owner may exploit the topography without the consent of the other co-owners and with no obligation to give them an account, unless something else has been agreed between them in writing.

Restrictions to Right to Topography

Art. 17. The right of the owner does not extend to:

1. the reproduction of a whole or a part of the registered topography by means of its incorporation in an integrated circuit or in another way, with the exception of those parts of it which are not original according to [Art. 3](#) above, where such reproduction has been done for private purposes, or for the purpose of evaluation, analysis, research or teaching;

2. the commercial use of a topography created by a third party as a result of the evaluation or analysis according to [item 1](#) above, where the newly created topography is original within the meaning of [Art.3](#);

3. the acts referred to in [Art.15, para 2](#), performed or ordered by a person who did not know and had no reasonable grounds to know that the registered topography had been unlawfully reproduced in the integrated circuit exploited; where the person becomes aware of that, he may continue to exploit the integrated circuit within the framework of the available stockpile or the goods ordered in advance provided that, upon request of the owner of the right to the topography, he shall pay an equitable remuneration which he would have paid in the case of freely negotiated license.

Exhaustion of Right to Topography

Art. 18. The owner of the right to a topography may not prohibit the commercial exploitation of an integrated circuit or of a product incorporating such circuit in which the registered topography has been implemented and which has been put on the Bulgarian market by, or with the consent of, the owner of the right.

Transfer of Rights

Art. 19.(1) All rights under this law may be transferred unless otherwise provided herein.

(2) In case of co-ownership of a topography the right may be transferred upon written consent of all co-owners unless otherwise agreed between them.

(3) The transfer shall be recorded in the State Register of Topographies upon request of one of the parties accompanied by a document of transfer.

(4) The transfer is effective to third parties from the date of its publication in the Official Bulletin of the Patent Office.

License Contract

Art. 20.(1) The owner of the right to the topography may allow its exploitation through a license contract.

(2) Authorization for exploitation of a co-owned topography shall be given with the mutual consent of all co-owners.

(3) By virtue of the license contract an exclusive or non-exclusive license can be granted. Where nothing else is agreed, the license shall be considered non-exclusive.

(4) The licensor under an exclusive license contract shall not have the right to grant licenses with the same subject matter to other persons. He, himself, shall have the right to exploit the licensed topography, only if this has been explicitly agreed.

(5) The license contract shall be recorded in the State Register of Topographies upon request of the licensee accompanied by an extraction from the license contract. The licensee shall be given a certificate.

(6) The license contract shall have effect with respect to third parties from the date it has been recorded in the State Register of Topographies.

Termination of Legal Protection of Topography

Art. 21.(1) The legal protection of the topography shall be terminated:

1. with the expiration of the term of protection in accordance with [Art.14, para 2](#);
2. by virtue of a waiver of the owner of the right;
3. upon the termination of the owner's existence, where there is no succession in title.

(2) The termination of the legal protection under [para 1, item 3](#) above shall be done upon request of any interested party.

Surrender of Right

Art. 22.(1) The owner of the right to a topography may surrender the right. The surrender must be declared before the Patent Office in writing.

(2) The surrender of the right declared by one or some of the co-owners shall not lead to a termination of the legal protection with respect to the rest of the co-owners.

(3) The surrender shall have effect as from the date of its record in the State Register of Topographies.

(4) In case of a recorded license contract the surrender shall be recorded, only if the owner furnishes evidence that he has informed the licensee about his intention to surrender. In this case the record shall be made on the expiry of a two month period from the submission of the evidence.

Invalidation of Registration

Art. 23.(1) The registration shall be invalidated upon request of any interested party where:

1. the topography does not meet the requirements of [Art.3](#);
2. the application for registration has not been filed within the time limit prescribed in [Art.14, para 1](#);
3. the material required in accordance with [Art.25, para 2, item 3](#), does not correspond to the topography of the integrated circuit presented as a sample under [Art.25, para 2, item 4](#).

(2) The registration of the topography shall be invalidated where it has been established in court proceedings that the recorded owner is not one of the persons listed in [Art.11](#) and no request

for record of the genuine owner has been filed within one month period after the court judgment has become effective.

Legal Effects of Invalidation

Art. 24.(1) The invalidation of the registration of the topography shall have effect from the respective date in accordance with [Art.14](#).

(2) The invalidation of the registration shall not affect:

1. judgments on claims for infringement which have become effective to the extent to which they have been enforced before the invalidation;

2. license contracts to the extent to which they have been performed, unless agreed otherwise.

CHAPTER THREE REGISTRATION PROCEDURE

Filing of Application

Art. 25.(1) An application for registration of a topography shall be filed with the Patent Office.

(2) The application shall be considered to be duly filed and shall be affixed a date of filing, where at least the following elements have been received in the Patent Office:

1. request for registration;

2. the name and address of the applicant;

3. a material identifying the topography for which the protection is sought;

4. a declaration for the date of the first commercial exploitation and a sample of the integrated circuit in which the topography is implemented where the commercial exploitation precedes the filing of the application.

Contents of Application

Art. 26.(1) Besides the date under [Art.25, para 2](#) the application shall contain:

1. the name of the state of which the applicant is citizen or in which he has permanent residence or in which he has a real and effective industrial or commercial establishment;

2. the name and address of the industrial property representative where the applicant has a representative and a power of attorney;

3. a document for the fees paid.

(2) The applicant may specify the material referred to in [Art.25, para 2, item 3](#) or some parts of it as a trade secret.

(3) The documents and data shall be submitted in Bulgarian language. Where they have been submitted in a language other than Bulgarian, the filing date shall be preserved, if they are furnished in Bulgarian language within a three month period from that date.

Formality Examination

Art. 27. For each application it shall be checked whether the requirements of [Art.26](#) are met. Where some deficiencies are established, the applicant shall be given a period of three months to remove them.

Termination of Procedure

Art. 28.(1) Where the applicant fails to remove the deficiencies within the time limit referred to in [Art.27](#) or the application is filed after the expiration of the time limit under [Art.14, para 1, item 1](#), the Patent Office shall take a decision for termination of the procedure.

(2) The decision under [para 1](#) above may be appealed against before Sofia City Court within three months in accordance with the Law on Administrative Proceedings.

Registration of Topography

Art. 29. Where the application satisfies the requirements referred to in [Art.25](#) and [Art.26](#), the topography shall be recorded in the State Register of Topographies. The Patent Office shall issue a certificate for registration in the name of the owner and shall publish the registration in the Official Bulletin of the Patent Office.

Changes in Name and Address of Owner

Art. 30.(1) The owner of the right to a topography shall be obliged to notify the Patent Office about any change in his name and address.

(2) The change shall be recorded in the State Register of Topography at the request of the owner.

(3) All documents of which the owner must be notified shall be sent to the address last recorded in the State Register of Topographies.

Extension and Restoration of Time Limits

Art. 31.(1) The time limit under [Art.27](#) may be extended by three months, but no more than twice, at the request of the applicant prior to the expiration of the time limit.

(2) The time limits which have been exceeded due to specific unforeseen circumstances may be restored at the request of the applicant or the owner. The request shall be filed within a period of up to three months after the reason for the exceeding of the time limit has ceased to exist but no later than one year after the expiration of the exceeded time limit. The decision for restoration of the time limit shall be taken by the President of the Patent Office.

CHAPTER FOUR CIVIL LAW PROTECTION

Infringement of Rights

Art. 32. Any exploitation of a registered topography in the course of commercial activities within the meaning of [Art.15, para 2](#) without the consent of its owner shall constitute an infringement of the exclusive right.

Right to Claim

Art. 33.(1) The right to a claim for infringement shall be vested in the owner of the right to a topography.

(2) A licensee under an exclusive license may bring a claim, if the owner fails to exercise that right within one month after he has received a notification of the infringement from the licensee.

(3) A licensee under a non- exclusive license may only bring a claim with the consent of the owner, unless otherwise agreed.

Claims for Infringement

Art. 34.(1) The claims for infringement of the right under this law may be:

1. a declaratory claim to establish the fact of the infringement;
2. a claim for ceasing the infringement;
3. a claim for compensation for damages.

(2) Simultaneously with the claim under [para 1](#) above the owner may also request:

1. processing or destruction of the object of infringement;
2. publication of the judgment of the court in two daily newspapers at the expense of the offender.

Claims for Invalidation of Registration

Art. 35.(1) Any interested party may, throughout the duration of the protection of the topography, bring a claim for invalidation of the registration on the grounds of [Art.23, para 1](#).

(2) On the grounds of the judgment of the court that has become effective the Patent Office shall delete the registration and a notice shall be published in the Official Bulletin of the Patent Office.

Claims for Right to Apply

Art. 36. Any interested party may bring a claim for the right to apply under [Art.11](#) within two years from the publication for the registration made in the Official Bulletin of the Patent Office.

Claims for Service Topography

Art. 37.(1) Any interested party may bring a claim to establish whether the topography is a service one or not in the meaning of [Art.12, para 1](#).

(2) The claim under [para 1](#) above shall be lodge to not later than one year from the date the registration has become known.

(3) In case of disputes in connection with [Art.12, para 4](#), the party disagreeing with the fixed remuneration may lodge a claim concerning the rate of the remuneration.

Jurisdiction

Art. 38. Claims under this law shall fall within the jurisdiction of Sofia Civil Court.

ADDITIONAL PROVISION

§ 1. For the purposes of this law:

1. “Integrated circuit“ means a product in its final form or an intermediate form, which is intended to perform functions of generating, transmitting, receiving, processing and/or storing information, and in which the elements and some or all of the interconnections are integrally formed in and/or on a common substrate.

2. “Topography of an integrated circuit“ means the tree-dimensional disposition, however expressed, of the elements 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.

3. “Local industrial property representative“ is a person who is a representative within the meaning of [Art.3](#) of the Patent Law.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. The protection of a topography which has been commercially exploited before the filing date of an application shall be effective as from the date of entering into force of this law provided that an application is filed after that date.

§ 3. In [Art. 587, para 1](#) of the Commercial Code (published in State Gazette, issue 48 of 1991, amended, issue 25 of 1992, issues 61 and 103 of 1993, issue 63 of 1994, issue 63 of 1995, issues 42, 59, 83, 86 and 104 of 1996, issues 58, 100 and 124 of 1997, issues 52 and 70 of 1998, issues 33, 42 and 64 of 1999) the words “topography of an integrated circuit“ are added after the word “mark“.

§ 4. In [Art. 19, para 2, item 2](#) of the Book keeping Law (published, State Gazette, issue 4 of 1991, amended, issue 26 of 1992, issue 55 of 1993, issues 21, 33 and 59 of 1996, issue 52 of 1997, issue 21 of 1998, issue 57 of 1999) the words “topographies of the integrated circuits“ are added after the word “patents“.

§ 5. In [§ 1, item 8](#) of the Law on the Corporate Income Taxation (published, State Gazette, issue 115 of 1997, corrected, issue 19 of 1998, amended, issues 21 and 153 of 1998, issues 12, 50 and 51 of 1999) the words “topographies of the integrated circuits“ are added after the word “patent“.

§ 6. The President of the Patent Office shall issue Implementing Regulations on this law.

§ 7. The Council of Ministers shall approve a Tariff for fees according to [Art. 5](#) above.

§ 8. The execution of the present law is assigned to the President of the Patent Office.

§ 9. This law shall enter into force three months after its publication in State Gazette.
