

ACT ON THE TOPOLOGY OF THE INTEGRATED CIRCUITS

Prom. SG. 81/14 Sep 1999, amend. SG. 30/11 Apr 2006, amend. SG. 98/13 Dec 2019

Chapter one. GENERAL PROVISIONS

Subject

Art. 1. This Act shall provide the conditions and the order for registration of the topology of the integrated circuits called hereinafter topology, the rights ensuing from its registration and the protection of these rights.

Application sphere

Art. 2. (1) This Act shall be applied with regard to the Bulgarian individuals and corporate bodies as well as with regard to foreign individuals and corporate bodies from states participating in international agreements to which the Republic of Bulgaria is a party.

(2) With respect to foreign individuals and corporate bodies from other states this Act shall be applied under the conditions of mutuality that is to be assessed by the Patent department.

Subject of protection

Art. 3. (1) Subject of protection shall be the original topology which is result of the own intellectual efforts of its author and is not known among the authors of topologies and the products of integrated circuits at the time its creating.

(2) To protection shall subject also the topology representing a combination of known elements and connections between them if only if complies with the conditions of para 1.

(3) The legal protection of the topology under this Act shall not cover the technologies for production of integrated circuit where the topology is applied as well as the information preserved in it.

Representation

Art. 4. (1) (amend. - SG 98/19) Any person who according to this Act has the right to implement activities before the Patent department shall be able to make this personally or through a representative of industrial property.

(2) (amend. - SG 98/19) The persons of para 1 who are not residents or do not have headquarters in the Republic of Bulgaria shall implement activities before the Patent department through a representative of industrial property.

Fees

Art. 5. The Patent department shall collect fees for: declaring, registration; publication of the registration, entering of transfer and other changes in the legal status and publications about them, entering of license contract and publication of the entering, entering of termination of a license and publication about this, access of third persons to the file, changes of the name and the address of the owner, extension of terms, information and excerpts of the State register of topologies, correction of technical mistakes admitted by the applicant, issuing of copies, in extent determined in a tariff approved by the Council of Ministers.

File

Art. 6. (amend. - SG 98/19) (1) The Patent Office maintains a paper and electronic file for each topology, which includes all the registration documentation and subsequent entries.

(2) The right of access to the file of the topology have the applicant, the holder, the industrial property representative, legal adviser from the administration of the applicant or holder, as well as a lawyer authorized in writing by the applicant or holder. Access to the file is also available to a person who is expressly authorized by a notarized power of attorney from the applicant or holder.

(3) After the publication under Art. 29 each person is entitled to information about the data, contained in the topology file, which is subject to entry.

(4) Third parties, in respect of whom circumstances admissible by law have been entered, have the right of access only to the documentation on the basis of which the entry was made.

(5) The patent office does not grant third parties access to the material identifying the topology or to parts of it defined by its proprietor as a trade secret, except by order of a court, where such persons are parties to a court proceedings for the deletion of registration or infringement of the exclusive right.

(6) The right of access to a file includes the right of persons authorized under this Act to familiarize themselves with and to obtain copies of all material and documents stored in the relevant file, with the exception of those under para. 5 and of the internal documents within the meaning of § 1, item 1 of the additional provisions of the Trademarks and Geographical Indications Act.

(7) The procedure for granting access to files and for obtaining references or extracts from register shall be determined by an instruction of the President of the Patent Office.

State register of the topologies

Art. 7. The State register of the topologies shall contain data about all the registered topologies and the subsequent changes referring to them.

Access to the State register of the topologies

Art. 8. The State register of the topologies shall be public. Anyone shall be able to require information or excerpt of the contents of the register.

Publication in the Official bulletin of the Patent department

Art. 9. The Patent department shall publish in its official bulletin all registered topologies and subsequent changes in the registration.

Chapter two. LEGAL PROTECTION

Acquiring of right over a topology

Art. 10. (1) Right over a topology shall be acquired through its registration at the Patent department assumed from the corresponding date of art. 14, para 1.

(2) The right over a design shall be exclusive.

Right to declaring

Art. 11. (1) The right to declaration shall belong to the person created the topology When the right to declaring belongs to several persons it shall be exercised by them jointly. The refusal of one or several persons to participate in the declaring shall not be impediment for the others. The refusal shall be implemented in writing.

(2) When the topology is official according to art. 12, para 1 the right to declaring shall belong to the employer or the orderer.

(3) The right to declaring of para 2 shall pass to the person created the topology if in three months term after the written notification about the created topology the employer, respectively the orderer does not submit an application unless other has been agreed between them.

(4) The right to declaring shall be possible to belong jointly to the employer, respectively the orderer and the person created the topology if this has been agreed.

(5) The right to declaring shall belong to the legal successors of the persons of para 1 - 4.

(6) It shall be considered that the applicant has the right to declaring until it is established otherwise by a court order.

Official topology

Art. 12. (1) The topology shall be official when it has been created in implementation of obligations in employment legal relation or as order unless among the parties other has been agreed in writing.

(2) The person who has created official topology shall have the right to additional remuneration.

(3) The remuneration of para 2 shall be possible to be determined as part of the incomes received from the use of the topology as one time sum or in another way.

(4) When the remuneration determined as one time sum occurs obviously impropotional to the incomes received from the use of the topology the person created official topology shall have right to require increase of the remuneration. If agreement is not reached between the parties the dispute shall be resolved by the court as it is fair.

Right to registration

Art. 13. The right to registration shall belong to the person who has right to declaring according to art. 11.

Term of effect of the protection

Art. 14. (1) 8. The protection over the topology shall be in effect from:

1. the date of the first commercial use of the topology implemented by the applicant wherever in the world if in two years term after this date he has submitted regular application at the Patent department, or

2. the date of submitting application at the Patent department according to art. 25, para 2 if the topology has not been already commercially used or if it has been used only secretly.

(2) The protection shall be terminated ten years after the end of the calendar year when has started the effect of it according to para 1.

Contents of the right over a topology

Art. 15. (1) The right over a topology shall include the right of its owner to use it, to dispose with it and to prohibit to third parties to use it in commercial activity without his consent.

(2) Use in commercial activity is reproduction, sale, exchange, letting, import or export or other

way of commercial distribution as well as proposal for such distribution of the topology or an Art. in which it has been included.

(3) The exclusive right shall have effect with regard to third good faith persons from the date of publishing the registration of the topology in the Official bulletin of the Patent department

Joint ownership of right over a topology

Art. 16. (1) The right over the topology shall be possible to be ownership of two or more persons.

(2) Any co-owner shall be able to use the topology without the consent of the other and without accounting for this before them unless other has been agreed among them in writing.

Restrictions of the rights over a topology

Art. 17. The right of the owner shall not cover:

1. the reproduction entirely or partially of the registered topology including it in integrated circuit or in another way except these parts of it that are not original according to art. 3 when it is implemented for personal needs, assessment, analysis, investigation or training;

2. the use with commercial objective of a topology created by a third person as a result of assessment of analysis of item 1 when the newly created topology is original in the sense of art. 3;

3. the activities of art. 15, para 2 implemented or ordered by a person who does not know or does not have grounds to suppose that a registered topology has been illegally realised in the used integrated circuit or in a product where such integrated circuit is contained; when the person learns about this he shall be able to continue the use of the integrated circuit within the existing inventory of commodity or the commodity ordered before knowing the illegally realisation, at request by the owner of the right over the topology having to pay fair remuneration that would have paid at free contracted license.

Depletion of the right over a topology

Art. 18. The owner of the right over a topology cannot prohibit the use in commercial activity of integrated circuits or product containing integrated circuit where is realised registered topology and which are released on the market of the Republic of Bulgaria by him or with his consent.

Transfer of rights

Art. 19. (1) All the rights under this Act as far as other has not been provided in it shall be possible to be transferred.

(2) At joint ownership of a topology the right shall be transferred with the written consent of all the co-owners unless other has been agreed among them.

(3) The transfer shall be entered in the State register of topologies at request by one of the parties to which shall be attached the document for transfer.

(4) The transfer shall have effect with regard to third parties from the date of publishing in the Official bulletin of the Patent department.

License contract

Art. 20. (1) The owner of the right over a topology shall be able to permit its use with a license contract.

(2) A permission for the use of a topology which is joint ownership be given with the consent of all the co-owners.

(3) The license can be exclusive or not exclusive. When other has not been agreed the license shall be considered not exclusive.

(4) The grantor of exclusive license shall not have right to concede licenses with the same subject to other persons. He shall have right to use the topology himself only if this is explicitly agreed.

(5) The license contract shall be entered in the State register of the topologies at request by the licensed to which an excerpt of the license contract shall be attached. A certificate shall be issued to the licensed person.

(6) The license contract shall have effect with regard to third parties from the entering in the State register of the topologies.

Termination of the legal protection of topology

Art. 21. (1) The legal protection of a topology shall be terminated with:

1. the elapse of the term of effect according to art. 14, para 2;
2. the refusal of the owner of the right;
3. the termination of the corporate body - owner of the right over the topology without legal succession.

(2) The termination of para 1, item 3 shall be implemented at request by the interested person.

Refusal of right over a design

Art. 22. (1) The owner of the right over a topology shall be able to refuse his right over it with a written declaration to the Patent department.

(2) The refusal of one or several of the co-owners shall not lead to termination of the legal protection for the other co-owners.

(3) The refusal shall have effect from its entering in the State register of topologies.

(4) When there is an entered license the refusal of right shall be entered only after the owner presents a proof that he has notified the licensed person about his intention to refuse his right over a topology.

Deleting of the registration

Art. 23. (1) The registration shall be deleted at request by any person when:

1. the topology does not meet the requirements of art. 3;
2. the application for registration has not been submitted within the term of art. 14, para 1, item 1;
3. the material required according to art. 25, para 2, item 3 does not comply with the topology of the

(2) The registration of the topology shall be deleted also when by a claim order has been established that the entered owner is not one of the persons pointed out in art. 11, and in one month term after the court decision enters into force no application has been received for entering the actual owner.

Legal consequences of the deleting

Art. 24. (1) The deleting of the registration of the topology shall have effect from the corresponding date of art. 14.

(2) The deleting of the registration of the topology shall not affect:

1. the decisions about claims for breach that have entered into force as far as they have been implemented before the deleting;

2. the license contracts as far as they have been fulfilled before the deleting unless other has been agreed.

Chapter three.

PROCEDURES FOR THE REGISTRATION

Submitting an application

Art. 25. (1) The application for registration of a topology shall be submitted to the Patent department.

(2) The application shall be considered regularly submitted and shall receive date of submission when at the Patent department have been received at least:

1. application for registration;
2. name and the address of the applicant;
3. material permitting identification of the topology for which registration is required;
4. declaration about the date of the first commercial use and sample of the integrated circuit where the declared topology is realised if the commercial use has been implemented before submitting the application.

Contents of the application

Art. 26. (1) The application shall apart from the data of art. 25, para 2 contain also:

1. the name of the state which citizen is the applicant where he is resident or implements real commercial or production activity;
2. the name and the address of the representative of industrial property when he is empowered, and the empowering letter;
3. document for paid fees;

(2) The applicant shall be able to determine the material according to art. 25, para 2 or parts of it as commercial secret.

(3) The documents and the data shall be presented in Bulgarian language. When they are presented in another language the date of submitting shall be preserved if in 3-months term after this date they are presented in Bulgarian language.

Formal expertise

Art. 27. For each application an expertise shall be implemented when shall be checked whether the requirements of art. 26 have been met. When shortcomings are found to the applicant shall be given 3 months term for removing them.

Termination of the procedure

Art. 28. (1) When the applicant does not remove the shortcomings within the term of art. 27 or the application has been submitted after the term of art. 14, para 1, item 1, the Patent department shall take decision for termination of the procedure.

(2) (amend. - SG 30/06, in force from 01.03.2007 for the replacement of the words “Sofia regional court” by “Administrative court – city of Sofia”) The decision of para 1 shall be possible to be appealed against by the order of the Administrative procedure code before the Administrative court – city of Sofia.

Registration of the topology

Art. 29 When the application meets the requirements of art. 25 and 26 the topology shall be entered in the State register of topologies, to the owner shall be issued a certificate for registration and the registration shall be published in the Official bulletin of the Patent department.

Changes of the name and the address of the owner

Art. 30. (1) The owner of the right over a topology shall be obliged to notify the Patent department about each change in the name or the address.

(2) The change shall be entered in the State register of the topologies at request by the owner.

(3) All the documents about which the owner has to be notified shall be sent to the address entered last in the State register of the topologies.

Extension and restoration of terms

Art. 31. (1) The term of art. 27 shall be possible to be extended with three months but not more than two times at request by the applicant before the expiry of the conceded term.

(2) Terms missed due to special and unpredicted circumstances shall be possible to be restored at request by the applicant or the owner. The application shall be submitted in 3 months after the reason for missing the term is not valid any more but not later than one year after the elapse of the missed term. The decision for restoration of the term shall be taken by the chairman of the Patent department.

Chapter four. CIVIL LEGAL PROTECTION

Breach of the right over a topology

Art. 32. Any use in commercial activity in the sense of art. 15, para 2 of registered topology without the consent of the owner of the right over a design shall constitute breach of the exclusive right.

Right to claim

Art. 33. (1) The owner of the right over a topology shall have right to claim.

(2) The licensed person with exclusive license shall be able to present a claim if the owner himself does not exercise this right in one month term after receiving announcement about the breach by the licensed person.

(3) The licensed person with not exclusive license shall be able to present a claim only with the consent of the owner unless other is provided in the contract.

Claims for breaches

Art. 34. (1) The claims for breaches of the rights under this Act shall be possible to be:

1. claim for establishing the fact of the breach;
2. claim for termination of the breach;
3. claim for indemnification of damages.

(2) Simultaneously with the claim of para 1 shall be possible to be required also:

1. reprocessing or destroying of the subject of the breach;
2. publishing of the decision of the court in two daily newspapers for the account of the violator.

Claims for deleting of the registration

Art. 35. (1) A claim for deleting the registration on the grounds of art. 23, para 1 shall be able to present any interested person during the whole term of the protection of the topology.

(2) On the basis of a court decision entered into force the Patent department shall delete the registration and publish it in the Official bulletin of the Patent department.

Claims for right to application

Art. 36. Claim for right to application under art. 11 shall be able to present any interested person in two years term after the publication of the registration in the Official bulletin of the Patent department.

Claims for official design

Art. 37. (1) Any interested person shall be able to present a claim for establishing whether the topology is official or not in the sense of art. 12, para 1.

(2) The claim f para 1 shall be presented at latest in one year after the registration is known.

(3) At disputes of art. 12, para 4 the party not agreeing with the determined remuneration shall be able to present a claim about its extent.

Jurisdiction

Art. 38. (amend. - SG 30/06, in force from 12.07.2006) The claims under this Act shall be within the competence of the Administrative court – city of Sofia.

Additional provisions

§ 1. In the sense of this Act:

1. "Integrated circuit" is a product in finished or intermediate form designated to implement functions for generating, transfer, receiving, processing and/or preservation of information in which the elements and some or all connections are made inseparable in and/or over a common plate.

2. "Topology of integrated circuit" is three-dimensional location of the elements and of the connections between them in the integrated circuit, presented in arbitrary way of such location prepared for integrated circuit designated for production.

3. (amend. - SG 98/19) "Representative of industrial property" is a representative in the sense of art. 3 of the Act on Patents and Registration of Utility Models.

Transitional and concluding provisions

§ 2. The legal protection of topology that has been commercially used before submitting the application shall be in effect from the Act entering in force under the condition that application is submitted after this.

§ 3. In art. 587, para 1 of the Commerce Act (prom. SG 48/91; amend. and suppl. SG 25/92, SG 61, 103/93, SG 63/94, SG 63/95, SG 42, 59, 83, 86, 104/96, SG 58, 100, 124/97, SG 52, 70/98, SG 33,

42, 64/99) after the word "mark" shall be added "topology of integrated circuit".

§ 4. In art. 19, para 2, item 2 of the Accountancy Act (prom. SG 4/91; amend. and suppl. SG 26/92, SG 55/93, SG 21, 33, 59/96, SG 52/97, SG 21/98, SG 57/99) after the word "patents" shall be added "topology of integrated circuits".

§ 5. In § 1, item 8 of the Corporate Income Taxation Act (prom. ...; amend. ...) after the word "patent" shall be added "topology of integrated circuits".

§ 6. The chairman of the Patent department shall issue instructions for the implementation of this Act.

§ 7. The Council of Ministers shall approve tariff for the fees of art. 5.

§ 8. The implementation of the Act shall be assigned to the chairman of the Patent department.

§ 9. The Act shall enter into force three months after the promulgation in State Gazette.

The Act was passed by the 38th National Assembly on September 2, 1999 and was affixed with the official seal of the National Assembly.

Transitional and concluding provisions TO THE ADMINISTRATIVE PROCEDURE CODE

(PROM. – SG 30/06, IN FORCE FROM 12.07.2006)

§ 142. The code shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136, item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – with regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;

2. paragraph 120, which shall enter into force from the 1st of January 2007;

3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.