

**Law on the Legal Protection of
Topographies of Integrated Circuits
of December 7, 1998
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Basic Concepts Used in this Law

1. The following basic concepts are used in this Law:

– topography of an integrated circuit (hereinafter referred to as “topography”)—means the three-dimensional disposition of all the elements constituting an integrated circuit and their interconnections fixed on a physical medium;

– integrated circuit—means a microelectronic product, in its final form or an intermediate form, which is intended to perform the functions of an electronic circuit and in which the elements and the interconnections are integrally formed in and/or on a piece of material acting as the basis for manufacturing the product;

– right holder—means the creator, his heir or any other natural person or legal entity enjoying the exclusive right to exploit the topography under the law or in accordance with a treaty;

– depository materials compose of an assembly of topological drawing, a set of photo patterns or photographs of each layer of the integrated surface, other documents providing identification of the registered topography.

Subject Matter and Conditions of Legal Protection

2. The legal protection provided by this Law shall apply solely to topographies that are original.

A topography shall be original if it is the result of its creator's own creative activity. A topography shall be deemed original unless proved otherwise.

A topography that consists of a combination of elements that are commonplace among creators of topographies and manufacturers of integrated circuits at the time of its creation shall not enjoy the legal protection afforded by this Law.

A topography that consists of a combination of elements that are commonplace among creators of topographies and manufacturers of integrated circuits at the time of its creation shall enjoy the legal protection afforded by this Law only if the combination, taken as a whole, meets the conditions referred to in paragraph (2) of this Article.

The legal protection afforded by this Law shall not extend to any idea, process, system, technique or encoded information that may be embodied in the topography.

Authorship of the Topography

3. The natural person whose creative activity has resulted in the topography shall be recognized as the creator thereof.

Where the topography is the result of the joint creative activity of two or more natural persons, they shall all be recognized as joint creators.

Natural persons who have not made any personal creative contribution to the making of the topography, having merely provided the creator with technical, organizational or material assistance, or helped in the securing of rights in the topography or in the exploitation thereof, shall not be recognized as joint creators.

The authorship of the topography shall belong to the creator and shall be an inalienable personal right. That right shall benefit from protection of unlimited duration.

Legal Protection of Topographies

4. In the Republic of Belarus, topographies are afforded legal protection on the basis of registration with the National Center of Intellectual Property of the Republic of Belarus

(hereinafter referred to as “the Patent Authority”), made in accordance with the provisions of this Law.

The topography may be registered in the name of a natural person or in the name of a legal entity.

The right to the topography is protected by the State and shall be attested by a certificate.

The certificate attests the authorship of the topography, the priority date of the topography and the exclusive right to exploit the topography.

The scope of the legal protection afforded to the topography shall be determined by a combination of the elements and the interconnections as shown on the depository materials.

Exclusive Right to Exploit the Topography

5. The exclusive right to exploit the topography shall belong to the creator or any other right holder.

The exclusive right to exploit the topography shall give the creator or any other right holder the possibility of exploiting the topography at his discretion, in particular by manufacturing and distributing integrated circuits embodying the topography.

No one may exploit a topography without having obtained the authorization of the creator or any other right holder who enjoys the exclusive right in the topography.

The following acts shall constitute infringements of the exclusive right to exploit the topography if performed without the authorization of the creator or any other right holder:

- the reproduction, whether by incorporation in an integrated circuit or otherwise, of the topography in its entirety or any part thereof, except where the part that is reproduced is not original;
- the use, importation, offering for sale, sale or any other form of placing on the market of the topography or of an integrated circuit in which the topography is incorporated.

Acts Not Constituting Infringements of the Exclusive Right to Exploit the Topography

6. The following acts shall not be considered infringements of the exclusive right to exploit the topography:

- the use of a topography where that use is made by a third party for private and non-commercial purposes or for the sole purpose of evaluation, analysis, research or teaching;
- the use of identical original topographies that have been independently created by a third party;

- the use of integrated circuits incorporating topographies protected by certificates where those integrated circuits have been lawfully placed on the market;
- the use of integrated circuits acquired lawfully or of products incorporating such integrated circuits where the person using them did not know and had no reasonable ground to know that the integrated circuits or products incorporating them have been manufactured and distributed in infringement of the exclusive right to exploit the topography. Once such person has been informed of the situation by the right holder in the topography but continues to use an integrated circuit or a product incorporating it, he shall pay to such right holder appropriate compensation for each integrated circuit or each product incorporating the integrated circuit.

Transfer of the Exclusive Right to Exploit the Topography

7. The exclusive right to exploit the topography may be contractually assigned in whole or in part by the creator or any other right holder to other natural persons or legal entities. The contract that transmits in whole the exclusive right to exploit the topography (contract of assignment of the rights in the topography) or the contract that transmits in part the exclusive right to exploit the topography (license contract) shall be registered with the Patent Authority, failing which it shall be deemed null and void. The contract shall be submitted for registration within three months after it has been signed.

The exclusive right to exploit the topography may be transferred by succession in accordance with the statutory provisions.

Exclusive Right to Exploit the Topography Created Under a Service Relationship or a Contract for Hire

8. The exclusive right to exploit the topography created under a service relationship or in fulfillment of an explicit commission by the employer shall belong to the employer unless otherwise provided in the contract between the employer and the creator.

The amount of remuneration arising out of the creation and exploitation of the topography and the conditions of payment shall be laid down in the contract concluded between the creator and the employer.

Unless otherwise provided by contract, the exclusive right to exploit the topography created under a contract for hire shall belong to the commissioner where such person is not the employer of the creator.

Term of the Exclusive Right to Exploit the Topography

9. The term of the exclusive right to exploit the topography shall be 10 years.

The exclusive right to exploit the topography shall begin on the earliest of the following dates:

- the date of first exploitation of the topography, that is to say, the earliest documented date on which the topography or an integrated circuit incorporating the topography was first put on the market anywhere in the world;
- the date of registration of the topography with the Patent Authority.

Where an identical original topography has been independently created by another person, the overall term of the exclusive right to exploit the topography may not be more than 10 years.

Application for Registration of the Topography

10. The application for registration of the topography (hereinafter referred to as “the application”) shall be filed with the Patent Authority: by the creator, by the employer whether natural or legal person where the circumstances specified in Article 8(1) of this Law obtain by the person, whether natural person or legal entity, to whom the creator or the employer has contractually assigned the right to file an application or to whom that right has been transferred by succession (further—Applicant).

The Applicant may file the application to the Patent Authority himself or through the patent agent registered with the Patent Authority.

The application shall be filed two years at the latest after the date of first exploitation of the topography if there has been exploitation.

The application shall relate to only one topography, but may present its alternative forms.

The application shall contain:

- a request for the issue of a certificate of registration, in which the creator (joint creators) of the topography and the person (or persons) in whose name the certificate of registration is applied for shall be named, the author if the latter has not refused to be mentioned as such, the address of the applicant, the date on which, and the place at which, the topography was first commercially exploited if it has been commercially exploited;
- the deposited material, including;
- an assembly drawing of the topography.

The requirements to be met by the documents constituting the application shall be specified by the Patent Authority.

The application shall be accompanied by:

- a document attesting payment of the prescribed fee, exemption from such payment or the existence of circumstances that warrant a reduction in the said fee;
- the power of attorney where the application is filed by a patent agent.

Priority of a Topography

11. The priority of a topography shall be determined by the date on which the Patent Authority receives a regular application.

The priority of a topography may be determined by the date on which the topography was first commercially exploited anywhere in the world or by the date on which the topography was first fixed or encoded.

Examination of the Application

12. In the course of the examination of the application the Patent Authority shall check that the requisite documents are all present and that they comply with the prescribed conditions.

The examination of the application shall be carried out within two months following the date of receipt thereof by the Patent Authority.

The application shall not be examined to comply with the conditions set out in paragraph(2) of Article 2 of this Law.

Where the documents contained in the application do not comply with the prescribed requirements, the applicant shall be invited to furnish the corrected or missing documents within two months from the date of receipt of the invitation. If the applicant fails, within the prescribed time limit, to comply with the invitation or to file a request for extension of the said time limit, the application shall be deemed to have been withdrawn and the applicant shall be notified accordingly.

In the event of disagreement with the decision taken on the examination, the applicant shall have the right, within three months following the date on which he has received the decision, to appeal against that decision to the Appeal Board of the Patent Authority or to the Supreme Court of the Republic of Belarus. The appeal shall be considered within one month following the date of receipt thereof.

The decision of the Appeal Board of the Patent Authority may be appealed to the Supreme Court of the Republic of Belarus within six months from the date of its receipt.

If during examination will be found that the documents contained in the application comply with the prescribed requirements, the decision to issue a certificate of registration of the topography shall be taken.

Where the examination finding is favourable and priority has been determined according to Article 11 of this Law, the applicant shall be notified accordingly.

Issue of a Certificate of Registration

13. After having registered the particulars of a topography in the State Register of Topographies of Integrated Circuits (hereinafter referred to as “the Register of

Topographies”), the Patent Authority shall, within one month following the date of receipt of the document attesting payment of the prescribed fee, issue a certificate of registration of the topography.

If a certificate of registration of a topography has been applied in the name of two or more persons, one certificate of registration in respect of the topography shall be issued to them.

Publication of Particulars of the Registration

14. The Patent Authority shall publish in the Official Bulletin, within six months following the date of registration of the topography, the particulars concerning the said registration that have been entered in the Register of Topographies pursuant to Article 13 of this Law. The Patent Authority shall also publish any subsequent amendment to the particulars of the registration of the topography. The list of particulars to be published in the Official Bulletin shall be determined by the Patent Authority.

Fees

15. Fees shall be payable for the filing of the application, for examination and registration and for the issue of the certificate of registration of the topography, and for the performance of other legal acts in relation to the topography. The list of acts for the performance of which fees are payable, the procedure, amount and time limits for the payment of fees, shall be determined by the legislation.

Exploitation of the Topography

16. The reproduction, use, importation, offering for sale, sale or any other form of placing on the market of a topography or of an integrated circuit incorporating the topography, shall be deemed to constitute exploitation of the topography.

The conditions for exploiting the topography the rights in which belong to two or more creators shall be determined by agreement between them.

In order to advertise his rights, the creator of a topography or his successor in title shall have the right of affixing to a protected topography or to products incorporating such a protected topography an indication in the form of a capital “T”, the date on which the exclusive right to exploit the topography took effect and information to identify the right holder.

Compulsory Licenses

17. In the event of non-exploitation or insufficient exploitation of a topography by the right holder three years after the date of registration of the topography with the Patent Authority, any person, whether natural person or legal entity, who wishes to exploit the protected topography and is ready to do so, but with whom the right holder refuses to enter

into a license agreement, may apply to a court to grant him a non-exclusive compulsory license.

If the Supreme Court of the Republic of Belarus decides to grant the non-exclusive compulsory license, the right holder shall conclude a license agreement with the person who wishes and is ready to exploit the protected topography and shall set the limits on the exploitation of that topography, and also the amount, dates and procedure for payment of royalties.

The Patent Authority

18. The Patent Authority shall, in accordance with this Law, receive applications, undertake the examination thereof, issue certificates of registration of the topography that have effect over the entire territory of the Republic of Belarus, ensure, within its competence, respect for legislation on legal protection of topographies, interpret the provisions of this Law.

Assertion of Rights in a Topography

19. The creator (right holder) of a topography may request:

- recognition of his rights;
- restoration of the situation existing prior to infringement of his rights and cessation of the acts that infringe his rights or that are liable to infringe them;
- payment of damages, the amount of which shall also include the amount of unlawful income obtained by the infringer;
- adoption, in conjunction with the defense of his rights, of other measures afforded by legislation.

Liability for Infringement of the Rights in a Topography

20. Any person who exploits a topography in a manner not conforming to the provisions of this Law or performs such other acts in respect of a topography that are prejudicial to the owner of the topography or to the consumers thereof, shall incur liability in accordance with the legislation in force.

Any person who unlawfully exploits another person's topography shall be bound, at the request of the owner of the topography, to discontinue such exploitation and to indemnify the said owner for the damages sustained.

Any person who improperly assumes the status of creator, acquires the status of creator by coercion or discloses the subject matter of the topography before an application has been filed and without the consent of the creator shall incur liability under the legislation in force.

Protection of Topography Rights Abroad

21. The creator of a topography or any other right holder may seek legal protection of the topography abroad.

The costs involved in obtaining legal protection for a topography abroad shall be borne by the person requesting such protection or, in agreement with that person, by any other natural person or legal entity.

Rights of Foreign Natural Persons and Legal Entities and Stateless Persons

22. Foreign natural persons and legal entities and stateless persons shall enjoy the rights provided for in this Law and incur liability on the same footing as nationals, whether natural persons or legal entities, of the Republic of Belarus, except where otherwise provided under the Constitution or the legislation of the Republic of Belarus or under an international treaty.

International Treaties

23. If an international treaty to which the Republic of Belarus is party contains provisions different from those contained in this Law, the provisions of the said international treaty shall be applicable.

Final Provisions

24. This Law shall enter into force on the day of its publication.

Until such time as the legislation of the Republic of Belarus is brought into conformity with this Law, the provisions currently in force shall remain applicable in so far as they do not contradict those of this Law, except where otherwise provided under the Constitution of the Republic of Belarus.

The Law of the Republic of Belarus on the Legal Protection of Topographies of Integrated Circuits shall apply to legal relations that have emerged after the date of its entry into force.

The Council of Ministers of the Republic of Belarus shall, within six months following the date of entry into force of this Law:

- draw up and submit, in prescribed manner, proposals to the House of Representatives of the National Assembly of the Republic of Belarus with a view to bringing current legislation of the Republic of Belarus into conformity with this Law;
- bring its regulatory texts into conformity with this Law;
- have its ministries and departments revise or repeal those of their regulatory texts that are contrary to this Law.