

# **On Legal Protection of Topology of Integrated Circuits**

## **Law of the Republic of Belarus**

*No. 214-Z of December, 7, 1998*

*[Amended as of January 4, 2010]*

Adopted by the Chamber of Representatives on 28<sup>th</sup> of October, 1998

Approved by the Council of Republic on 19<sup>th</sup> of November, 1998

### **Article 1. The Basic Terms Used in the Present**

The basic terms used in the present Law:

Topology of an integrated circuit (further - topology) - the spatial-geometrical arrangement of set of elements of an integrated circuit fixed on a material carrier and connections between them;

Integrated circuit - the microelectronic product of the final or intermediate form intended for performance of functions of the electronic circuit, elements and connections of which are inseparably generated in volume and (or) on a surface of a material on the basis of which the product is made;

The right owner - the author of topology, his successor, and also any natural or legal person having the exclusive right to use of topology, received by virtue of the law or the contract.

The deposited materials - an assembly topology drawing, a set of photo samples or photographs of every layer of an intergrated circuit and other materials providing the identification of the topology registered.

### **Article 2. Object and Conditions of Legal Protection**

The legal protection given by the present Law shall extend only to original topology.

The topology created as a result of creative activity of the author shall be deemed original. The topology shall be admitted original until proved otherwise.

The legal protection shall not be given to topology which set of elements is well-known to developers and manufacturers of an integrated circuit on date of its creation.

The topology consisting of elements which are well-known to developers and manufacturers of an integrated microcircuit on date of creation, the legal protection shall be given only in the event that the set of such elements as a whole meets the requirements of a part second of the present article.

The legal protection given by the present Law, shall not be extended to ideas, ways, systems, technology or any coded information which can be embodied in topology.

### **Article 3. Authorship to Topology**

The natural person by whose creative activity the topology is created shall be admitted as its author.

If the topology is created as the result of creative activity of several natural persons all of them shall be considered as its co-authors.

The persons, who have not brought in the personal creative contribution to creation of topology, and rendered to the author (co-authors) only technical, organizational or material assistance or promoting registration of rights of use of topology shall not be admitted as co-authors.

The right of authorship on topology shall be the inalienable personal right and shall be protected perpetually.

### **Article 4. Legal Protection of Topology**

The legal protection of topology in the Republic of Belarus shall be granted on the basis of registration of the given topology in the state establishment "National Center of Intellectual Property" (hereinafter - the patent body) in order established by the present Law.

The topology can be registered for the name of the legal or natural person.

The right on topology shall be protected by the state and proved by the certificate.

The certificate on topology shall certify authorship, a priority of topology and the exclusive right to its use.

The extent of the legal protection given to topology, shall be determined by set of its elements and the connections presented in the deposited materials.

### **Article 5. The Exclusive Right to Use of Topology**

The exclusive right to use of topology shall belong to the author of this topology or other right owner.

The exclusive right shall give the author of topology or other right owner an opportunity to use this topology at its own discretion, in particular, by manufacturing and distribution of an integrated circuit with such topology.

Use by other persons of topology in respect of which the author or other right owner possess the exclusive right, shall be supposed only with the consent of the last.

Fulfillment of the following actions without the permission of the author or other right owner shall be admitted as infringement of the exclusive right to use of topology:

copying of topology as a whole or its parts by inclusion of the given topology in an integrated circuit or otherwise, except for copying only that part which is not original;

application, import, the offer to sale, sale and other introduction in a civil turnover of topology or an integrated circuit with this topology.

**Article 6.** Actions, Which shall not be Recognized as Infringement of Exclusive Rights of Use of Topology

The following shall not be admitted as infringement of the exclusive right to use of topology:

Actions on use of the topology, which are carried out by the third party for the private purposes without extraction of the profit or only with the purpose of an estimation, the analysis, research or training;

Any actions on use of the identical original topology independently created by the third party;

Application of an integrated circuit in which the topology protected by the certificate is used if this integrated microcircuit has been entered into a civil turnover by lawful way;

Use of lawfully acquired integrated circuits or the products containing such integrated circuits, if the person using them did not know and should not know, that these integrated circuits or the products containing such integrated circuits, are made and distributed with infringement of the exclusive right to use of topology. If after reception of the appropriate notice from the right owner of topology this person continues to use the integrated circuit or a product, he shall be obliged to pay proportional indemnification for each integrated circuit or each product containing such integrated circuit.

**Article 7.** Transfer of the Exclusive Right to Use Topology

The exclusive right to use of topology can be transferred by the author or other right owner in full or in part to other natural or legal persons under the contract. The contract on transfer of the exclusive right to use of topology in full (the contract on a concession of the right on topology) and the contract on transfer of the exclusive right to use of topology in part (the license agreement) shall be registered in the patent body and without registration shall be considered null and void. The contract shall be submitted on registration within three months from the date of its signing.

The exclusive right to use of topology shall be succeeded in the order established by the law, and also by way of assignment.

**Article 8.** The Exclusive Right to Use of Topology, Created by way of Performance of Official Duties or Under the Contract With the Customer

The exclusive right to use of the topology created by the author in order of performing his official duties or under orders of the employer shall belong to the employer, if the contract between him and the author does not stipulate other.

The order of payment and rate of commission to the author for creation and use of topology shall be established by the contract between the author and the employer.

The exclusive right to use of the topology created by the author under the contract with the customer, not being his employer, shall belong to the customer if the contract does not stipulate other.

#### **Article 9.** Term of Validity of the Exclusive Right to Use of Topology

The exclusive right to use of topology shall be valid within ten years.

The beginning of validity of the exclusive right to use of topology shall be determined by the earliest of the following dates:

By date of the first use of topology which shall be understood as the earliest documentary fixed date of introduction in a civil turnover somewhere in the world of this topology or an integrated circuit with such topology;

By date of registration of topology in the patent body.

In case of occurrence of identical original topology independently created by other author, the general term of validity of the exclusive right to use of topology cannot exceed ten years.

#### **Article 10.** Application for Registration of Topology

The application for registration of topology (further - the application) shall be submitted to the patent body by the author, natural or legal person being an employer of the author if there are conditions provided by part one article 8 of the present Law, natural or legal person to whom the author or the employer has transferred by contract their right to submit the application or by the person who is a representative of the author on legal grounds or by whom the right was inherited (hereinafter - an applicant).

Submission of the application to the patent body, conducting business with the patent body may be carried out by the applicant independently or through the patent agent registered in the patent body.

Submission of the application may be carried out in the term not exceeding two years from the date the topology was used for the first time, if such use has taken place.

The application shall concern only one topology and may include its variants.

The application shall include:

the application for issuing the certificate with the indication of a person(s) on whose name the certificate is asked, as well as an author if he did not refuse to be mentioned as the author, their location (place of residence) and the date when the topology was used for the first time, if such use has taken place;

deposited materials;

the report.

Requirements to the documents of the application are established by the Council of Ministers of the Republic of Belarus.

The following shall be enclosed to the application:

the document confirming the payment of patent duty in the established amount or exemption from the payment of patent duty or presence of grounds for reduction of its amount;

letter of authorization (in case the application is submitted through a representative).

#### **Article 11. Priority of Topology**

The priority of topology shall be established by the date of receipt in the patent body of correctly made out application.

The priority of topology can be established by the date of first use of topology in commercial purposes somewhere in the world, and also by date of its first fixation or coding.

#### **Article 12. Examination of the Application**

At the course of examination of the application the presence of necessary documents and observantion of main requirements to them are checked.

The examination is held by the patent body within three months from the date of submission of the application.

The expertise of the application on compliance with the conditions provided by part two article 2 of the present Law is not carried out.

If the documents comprising the application are drawn up with the violation of the requirements specified for them, a request is sent to the applicant with the proposal to submit correctly drawn up documents within the two months term from the date of receipt of the request. Under the petition of the applicant this term can be prolonged, but not more than for twelve months providing the petition has come in before the expiry of this term. If within the specified term the applicant doesn't submit the requested materials or petition on prolonging of the established term the decision on refusal of issuing the certificate on the topology is taken on which the applicant is informed.

If the applicant does not agree with the decision of the examination, within one year from the date the decision is received he has the right to submit a motivated complaint to the Appeal council at the patent body and (or) to the Supreme Court of the Republic of Belarus. The appeal council at hte patent body shall consider the complaint within a month from the day it is received.

The decision of the Appeal council at the patent body may be appealed by the applicant to the Supreme court of the Republic of Belarus within six months from the day it is received.

If as the result of the examination it is established that the documents comprising the application are drawn up right, the decision to issue the certificate for the topology is taken.

The applicant is notified about the positive results of the examination of the application or about the establishment of the priority in accordance with the article 11 of the present Law.

### **Article 13. Issuing the Certificate on Topology**

Distribution of the certificate on topology shall be made by the patent body after entering data on topology into the State register of topology of integrated circuits (further - the Register of topology) in a month's time after reception of the document on payment of the established patent duty.

At presence of several persons on whose name the certificate was asked, one certificate shall be issued to them.

### **Article 14. Publication of Data on Registration**

The data concerning registration of topology and brought in the Register of topology according to the article 13 of the present Law, shall be published by the patent body in the official bulletin within six months from the date of registration of topology in the Register of topology. The publication of all subsequent changes in the data concerning registration of topology shall be made also. The volume of the data published in the official bulletin, shall be determined by the patent body.

### **Article 15. Patent Duties**

For the submission of application, carrying out expertise, registration and issuing the certificate for topology, as well as for fulfillment of other legally meaningful actions the patent duties shall be collected. The list of legally meaningful actions, for which patent duties are collected, the payers, the rates, the order and terms of payment of patent duties, the benefits to the special categories of patent duty payers or the basis of patent duty back shall be established by the President of the Republic of Belarus and (or) by laws, if another is not established by the President of the Republic of Belarus.

### **Article 16. Use of Topology**

Reproduction, application, import, the offer to sale, sale and other introduction in a civil turnover of this topology or an integrated circuit with such topology shall be admitted as use of topology.

Conditions of use of topology, the right on which belong to several persons, shall be determined by the contract between them.

For the notification about the rights the author of topology or his assignee shall have the right to specify on protected topology, and also on the products including such topology, a capital letter "T", a date of the exclusive right to use of topology begins and the information allowing to identify the right owner.

### **Article 17. Compulsory License**

At non-use or insufficient use of topology by the legal owner within three years from the date of its registration in the patent body any natural or legal person wishing and ready to use the

protected topology, in default the right owner from the conclusion of the license agreement can address the Supreme Court of the Republic of Belarus with the claim for granting him the compulsory non-exclusive license.

In case of taking by the Supreme Court of the Republic of Belarus a decision on satisfaction of the claim for granting the compulsory non-exclusive license the right owner shall be obliged to conclude the license contract with the person wishing and ready to use protected topology, with definition of limits of use of topology, the size, terms and about payments.

#### **Article 18. Powers of Patent Body**

The patent body according to the present Law shall accept applications to consideration, shall carry out examination on them, shall issue certificates on the topology being valid in all territory of the Republic of Belarus, shall carry out within the limits of competence the control over observance of the legislation on legal protection of topology, shall generalize practice of its application.

#### **Article 19. Protection of Rights to Topology**

The author (right owner) of topology shall have the right to demand:

Recognition of his rights;

Restoration of the position existing before infringement of the right, and the cancellation of actions breaking the right or creating threat of its infringement;

Compensation of the caused damage with taking into consideration the sum of incomes unlawfully received by the infringer;

Acceptance of other measures stipulated by acts of the legislation connected with protection of his rights.

#### **Article 20. Responsibility for Infringement of Rights to Topology**

Use of topology with infringement of positions of the present Law, and also other actions concerning topology, causing damage to its owners or consumers, shall entail the responsibility according to the legislation of the Republic of Belarus.

The person illegally using someone's topology, on demand of owners shall be obliged to stop its use and to compensate the caused damage.

Assignment of authorship, compulsion to the co-authorship, disclosure of essence of topology before application for it without the consent of the author shall entail the responsibility according to the legislation of the Republic of Belarus.

#### **Article 21. Protection of Rights to Topology in Foreign Countries**

The author of topology or other right owner can seek legal protection of topology in foreign countries.

The charges connected with reception of a legal protection of topology in foreign countries, the person searching for such protection, or other natural or legal person under the agreement with him.

**Article 22.** Rights of Foreign Citizens, Persons Without Citizenship and Foreign Legal Persons

Foreign citizens, persons without citizenship and foreign legal persons shall have the rights stipulated by the present Law, and shall bear the responsibility equally with the citizens and legal persons of the Republic of Belarus if other is not determined by the Constitution of the Republic of Belarus, laws and the international treaties.

**Article 23.** International Treaties

If the international treaty concluded by the Republic of Belarus contain other rules than those contained in the present Law, the rules of the international treaty shall be applied.

**Article 24.** Final provisions

The present Law shall come into force from the date of its publication.

Before bringing the legislation of the Republic of Belarus in conformity with the present Law it shall be applied in that part in which it does not contradict the present Law if other is not stipulated by the Constitution of the Republic of Belarus.

The law of the Republic of Belarus "On Legal Protection of Topology of Integrated Circuits" shall be applied to legal relations, arisen after coming into force of the present Law.

To Council of Ministers of the Republic of Belarus shall within six months from the date of the introduction of the present Law:

Prepare and bring in the established order to the Chamber of Representatives of the National Assembly of the Republic of Belarus propositions on bringing the legislative acts of the Republic of Belarus in conformity with the present Law;

Bring the resolutions of the Government of the Republic of Belarus in conformity with the present Law;

Provide revision and cancellation by the republican state bodies subordinate to Council of Ministers of the Republic of Belarus their statutory acts contradicting to the present Law.

\* unofficial translation \*

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