

# Federal Law on the Protection of the Topographies of Semiconductor Products (Topographies Law)

(of October 9, 1992)\*

## TABLE OF CONTENTS\*\*

	<i>Articles</i>	
Chapter 1:	General Provisions	
Section 1:	Subject and Scope	
	Subject .....	1
	Scope .....	2
Section 2:	Ownership of Rights	
	Owner of Rights.....	3
	Transfer of Rights.....	4
Section 3:	Scope of Protection	
	Exploitation Rights .....	5
	Exhaustion of Rights.....	6
	Lawful Reproduction and Development .....	7
	Acquisition in Good Faith.....	8
Section 4:	Term of Protection.....	9
Section 5:	Legal Protection	
	Civil Proceedings.....	10
	Penal Provisions .....	11
	Assistance from the Customs Authorities.....	12
Chapter 2:	Topography Register	
	Responsibility .....	13
	Filing of Application.....	14
	Registration and Cancellation.....	15
	Access to the Register.....	16
	Remedies .....	17
Chapter 3:	Final Provisions	
Section 1:	Execution.....	18
Section 2:	Transitional Provisions	
	Existing Topographies .....	19
	Existing Contracts.....	20
Section 3:	Referendum and Entry into Force.....	21

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\* *Official French title:* Loi fédérale sur la protection des topographies de produits semi-conducteurs (Loi sur les topographies, LTo).

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*Source:* Communication from the Swiss authorities. Translation by the International Bureau of WIPO.

*Editor's note:* Following the adoption, on March 24, 1995, of the Federal Law on the Status and the Responsibilities of the [Swiss] Federal Intellectual Property Institute, the said Institute has taken over, as of January 1, 1996, the responsibilities of the former Swiss Federal Intellectual Property Office.

\*\* Added by the International Bureau of WIPO.

# CHAPTER 1 GENERAL PROVISIONS

## Section 1 Subject and Scope

### *Subject*

*Art. 1.—*

(1) This Law shall protect the three-dimensional structures of semiconductor products (topographies), however fixed or encoded, to the extent that they are not commonplace.

(2) Topographies consisting of elements that are commonplace shall also be protected if their selection and arrangement is not commonplace.

### *Scope*

*Art. 2.—*

(1) This Law shall apply:

(a) to topographies of Swiss producers and of persons who have their habitual residence or their commercial establishment in Switzerland;

(b) to topographies put into circulation for the first time in Switzerland;

(c) to topographies protected in Switzerland under international treaties.

(2) The Federal Council may extend the scope of all or part of this Law to topographies of other foreign producers if the State in which the producer has his habitual residence or his commercial establishment or in which the topography has been put into circulation for the first time affords or will afford a similar degree of reciprocity.

(3) International treaties shall remain unaffected.

## Section 2 Ownership of Rights

### *Owner of Rights*

*Art. 3.—*

(1) Rights shall originally vest in the producer.

(2) Producer shall mean the natural or legal person who has developed the topography at his own expense and risk.

### *Transfer of Rights*

*Art. 4.* Topography rights shall be transferable by assignment or by inheritance.

## Section 3 Scope of Protection

### *Exploitation Rights*

*Art. 5.* The producer shall have the exclusive right:

(a) to copy the topography by any means and in any form whatsoever;

(b) to offer to the public, sell, rent, lend or otherwise put into circulation or import the topography or copies of the topography for such purposes.

#### *Exhaustion of Rights*

*Art. 6.* Where the producer has sold copies of a topography or has consented to such sale, such topography may be resold or otherwise put into circulation.

#### *Lawful Reproduction and Development*

*Art. 7.—*

(1) It shall be lawful to copy topographies for the purposes of research and teaching.

(2) Where a new development is made of a topography, the new development may be exploited independently on condition that it is not commonplace.

#### *Acquisition in Good Faith*

*Art. 8.—*

(1) It shall be lawful to put back into circulation semiconductor products acquired in good faith, but which contain unlawful copies of topographies.

(2) The producer shall be entitled to equitable remuneration. In the event of a dispute, the courts shall decide whether an entitlement to remuneration exists and, if so, shall set the amount of the remuneration.

### **Section 4 Term of Protection**

*Art. 9.—*

(1) Topography protection shall terminate 10 years after valid application for registration (Art. 14) or after the topography has been put into circulation for the first time if the latter date is earlier. Paragraph (2) shall remain unaffected.

(2) Protection of a topography for which a registration application has not been filed shall terminate two years after the topography has been put into circulation for the first time.

(3) Protection shall terminate in any event 15 years after development of the topography.

(4) The term of protection shall be calculated as from December 31 of the year in which the event determining the calculation occurred.

### **Section 5 Legal Protection**

#### *Civil Proceedings*

*Art. 10.—*

(1) Civil proceedings in relation to topography protection shall be governed by Articles 61 to 66 of the Copyright Law of October 9, 1992.<sup>1</sup>

(2) Semiconductor products acquired in good faith (Art. 8) shall not be subject to confiscation of copies under Article 63 of the aforementioned Law.

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<sup>1</sup> For the text of the Copyright Law of October 9, 1992, as amended, see *Copyright and Neighboring Rights Laws and Treaties*, SWITZERLAND – Text 1-01 (*Editor's note*).

### *Penal Provisions*

*Art. 11.—*

(1) At the request of the person whose rights have been infringed, any person shall be liable to imprisonment for a term not exceeding one year or to a fine who, intentionally and unlawfully:

- (a) copies a topography by any means and in any form whatsoever;
- (b) offers to the public, sells, rents, lends or otherwise puts into circulation a topography or who imports it for such purposes;
- (c) refuses to inform the responsible authority of the origin of the articles that have been unlawfully produced or put into circulation and which are in his possession.

(2) Any person who commits such act by way of trade shall be prosecuted *ex officio*. The penalty shall be imprisonment and a fine of up to 100,000 francs.

### *Assistance from the Customs Authorities*

*Art. 12.* Assistance from the customs authorities shall be governed by Articles 75 to 77 of the Copyright Law of October 9, 1992.

## CHAPTER 2 TOPOGRAPHY REGISTER

### *Responsibility*

*Art. 13.* The Federal Intellectual Property Office (Office) shall keep the Topography Register.

### *Filing of Application*

*Art. 14.—*

(1) An application for entry in the Register shall contain for each topography:

- (a) a request for registration together with a precise description of the topography and of its utilization;
- (b) the documents required to identify the topography;
- (c) where appropriate, the date of first putting into circulation of the topography;
- (d) particulars establishing eligibility for protection under Article 2.

(2) A fee shall be paid for each application.

(3) An application shall be deemed valid once the fee has been paid and all the documents referred to in paragraph (1) have been filed.

### *Registration and Cancellation*

*Art. 15.—*

(1) The Office shall enter a topography in the Register once the application procedure is completed.

(2) It shall cancel the entry of the topography in whole or in part if:

- (a) the producer so requests;
- (b) protection is revoked by a final court judgment.

### *Access to the Register*

*Art. 16.* Any person may consult the Register and the application files and obtain information on the content of the documents on payment of a fee.

*Remedies*

*Art. 17.* Appeals from decisions of the Office with respect to the registration of topographies shall lie to the Board of Appeal for Intellectual Property.

**CHAPTER 3  
FINAL PROVISIONS**

**Section 1  
Execution**

*Art. 18.* The Federal Council shall issue implementing regulations.

**Section 2  
Transitional Provisions**

*Existing Topographies*

*Art. 19.—*

(1) This Law shall also apply to topographies developed prior to its entry into force.

(2) The protection of topographies put into circulation prior to the entry into force of this Law shall terminate two years after the entry into force of this Law unless entry in the Register of the topographies concerned has been applied for within that period.

*Existing Contracts*

*Art. 20.—*

(1) Contracts relating to rights in topographies concluded prior to the entry into force of this Law and measures agreed on the basis of such contracts shall continue to have effect in accordance with the rules of the previous Law.

(2) Unless otherwise agreed, such contracts shall not be applicable to the rights afforded by this Law.

**Section 3  
Referendum and Entry into Force**

*Art. 21.—*

(1) This Law shall be subject to optional referendum.

(2) It shall enter into force on the same date as the Copyright Law of October 9, 1992.