

# **Federal Law on the Protection of Topographies of Semi-Conductor Products**

**(Law on Topographies, LTo)**

of October 9, 1992 (Status July 1, 2008)

(English version\*)

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*The Federal Assembly of the Swiss Confederation,*

having regard to Articles 64 and 64bis of the Constitution,<sup>1</sup>  
having regard to the message from the Federal Council of June 19, 1989,<sup>2</sup>

*hereby enacts as follows:*

## **Chapter 1 General provisions**

### **Section 1 Subject matter and scope**

#### **Article 1 Subject matter**

<sup>1</sup>The present Law shall protect three-dimensional structures of semi-conductor products (topographies), irrespective of how they are fixed or encoded, insofar as they are not commonplace.

<sup>2</sup>Topographies consisting of commonplace elements shall be protected where they are selected or arranged in a way that is not commonplace.

#### **Article 2 Scope**

<sup>1</sup>The present law shall apply to:

- a. topographies of Swiss producers and of those who have their usual residence or business premises in Switzerland;
- b. topographies that have been put into circulation for the first time in Switzerland;
- c. topographies that are protected in Switzerland under international treaties.

<sup>2</sup>The Federal Council may extend the scope of all or part of the present Law to topographies of other foreign producers where it has been established that reciprocity is or will be granted by the State in which the producer has his usual residence or business premises, or by the State in which the topography has been put into circulation for the first time.

<sup>3</sup>International agreements shall be reserved.

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- Courtesy translation provided by WIPO.

RO 1993 1828

<sup>1</sup> [RS 1 3]

<sup>2</sup> FF 1989 III 465

**Section 2 Entitlement to rights****Article 3** The holder

<sup>1</sup> The original holder shall be the producer.

<sup>2</sup> Producer means the natural person or legal entity that has developed the topography at his own risk.

**Article 4** Transfer of rights

The rights in topographies may be assigned and transferred by succession.

**Section 3 Extent of protection****Article 5** Exploitation rights

The producer shall have the exclusive right to:

- a. copy the topography by any means and in any form whatsoever;
- b.<sup>3</sup> offer to the public, dispose of, rent, lend or put into circulation in any other way, or to import, export or have conveyed in transit for these purposes, the topography or copies thereof.

**Article 6** Exhaustion of rights

Copies of the topography that have been disposed of by the producer or with his consent may again be disposed of or put into circulation in some other way.

**Article 7** Lawful reproduction and development

<sup>1</sup> It shall be lawful to copy topographies for the purposes of research and teaching.

<sup>2</sup> Where the topographies are given a new development, such a development may be exploited independently provided it is not commonplace.

**Article 8** Acquisition in good faith

<sup>1</sup> It shall be lawful to put back into circulation semi-conductor products acquired in good faith but which contain unlawful copies of topographies.

<sup>2</sup> A producer shall be entitled to fair remuneration. In the event of a dispute, the judge shall decide whether the right to remuneration is well founded and, if it is, shall set the amount of that remuneration.

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<sup>3</sup> New wording in accordance with Ch. 2 of the annexe to the Federal Law of June 22, 2007, in force since July 1, 2008 (RO 2008 2551 2567; FF 2006 1).

## **Section 4 Duration of protection**

### **Article 9**

<sup>1</sup> The protection of topographies shall end ten years after the application for registration has been recognized as valid (Art.14) or after the topographies have been put into circulation for the first time, if the latter date comes before the first one.

Paragraph 2 shall be reserved.

<sup>2</sup> The protection of topographies whose registration has not been applied for shall end two years after the topographies have been put into circulation for the first time.

<sup>3</sup> In all circumstances, protection shall end 15 years after the development of the topography.

<sup>4</sup> The period of protection shall begin on December 31 of the year in which the decisive event has occurred.

## **Section 5 Legal procedure**

### **Article 10 Civil actions**

<sup>1</sup> Civil actions concerning the protection of topographies shall be governed by Articles 61 to 66 of the Law of October 9, 1992 on Copyright.<sup>4</sup>

<sup>2</sup> Semi-conductor products acquired in good faith (Art. 8) shall not be subject to the confiscation of copies pursuant to Article 63 of the aforementioned law.

### **Article 11<sup>5</sup> Criminal provisions**

On a complaint by the injured party, a custodial sentence of one year maximum or a financial penalty shall be imposed on any person who, intentionally and unlawfully:

- a. copies a topography, by any means and in any form whatsoever;
- b. offers a topography to the public, disposes of it, rents it, lends it or in some other way puts it into circulation or imports it for these purposes;
- c. refuses to declare to the competent authorities the origin of objects that have been unlawfully produced or put into circulation and which are in his possession.

<sup>2</sup> Where a party committing an infringement under the terms of paragraph 1 is acting in the exercise of his occupation, he shall automatically be prosecuted. The penalty shall be a custodial sentence of five years maximum or a financial penalty. In the event of a custodial sentence, a financial penalty shall also be imposed.

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<sup>4</sup> RS 231.1

<sup>5</sup> New wording in accordance with Ch. 2 of the annex to the Federal Law of June 22, 2007, in force since July 1, 2008 (RO 2008 2551 2567; FF 2006 1).

**Article 12<sup>6</sup>** Intervention by the Customs Administration

Intervention by the Customs Administration shall be governed by Articles 75 to 77h of the Law of October 9, 1992 on Copyright.<sup>7</sup>

**Chapter 2 Topography registration****Article 13** Authority

The Federal Institute for Intellectual Property (Institute)<sup>8</sup> shall keep the register of topographies.

**Article 14** Filing of an application for registration

<sup>1</sup> For each topography, an application to be entered in the register shall include the following:

- a. the application for registration together with a precise description of the topography and its use;
- b. the documents necessary for identifying the topography;
- c. where applicable, the date on which the topography was first put into circulation;
- d. details making it possible to establish whether this is a topography protected pursuant to Article 2.

<sup>2</sup> A fee shall be paid for each application.

<sup>3</sup> An application shall be valid once the fee has been paid and the documents referred to in paragraph 1 have been filed.

**Article 15** Registration and striking from the register

<sup>1</sup> The Institute shall enter the topography in the register once the procedure relating to the registration of the application has been completed.

<sup>2</sup> It shall strike out the topography, in whole or in part, where:

- a. the producer requests this;
- b. protection is revoked by a final judgment.

**Article 16** Access to the register

For a fee, any person may consult the register and the applications and may obtain information about the content of these documents.

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<sup>6</sup> New wording in accordance with Ch. 2 of the annex to the Federal Law of June 22, 2007, in force since July 1, 2008 (RO 2008 2551 2567; FF 2006 1).

<sup>7</sup> RS 231.1

<sup>8</sup> New expression in accordance with Ch. 3 of the annex to the Law of Dec. 19, 2003 on Electronic Signatures, in force since Jan. 1, 2005 (RS 943.03). This amendment has been taken into account throughout the present text.

**Article 16<sup>9</sup>** Electronic communication with the authorities

<sup>1</sup> The Federal Council may authorize the Institute to regulate electronic communications in the context of the general provisions governing federal procedures.

<sup>2</sup> Files may be maintained and stored electronically.

<sup>3</sup> The register of topographies may be kept electronically.

<sup>4</sup> The Institute may make its data accessible to third parties, in particular online; it may require remuneration for this service.

<sup>5</sup> The Institute's publications may be presented electronically; the electronic version shall, however, be the authentic version only where the data are published exclusively in electronic format.

**Article 17<sup>10</sup>****Chapter 3 Final provisions****Section 1 Enforcement****Article 18**

The Federal Council shall decree the enforcement provisions.

**Section 2 Transitional provisions****Article 19 Existing topographies**

<sup>1</sup> The present Law shall also apply to topographies that have been developed before its entry into force.

<sup>2</sup> The protection of topographies that have been put into circulation before the entry into force of the present Law shall end two years after the entry into force of this Law, unless an application to register the topographies in question has been filed within this period.

**Article 20 Existing contracts**

<sup>1</sup> Contracts concerning rights in topographies entered into before the entry into force of the present Law shall continue to be valid in accordance with the rules of previous law; the same shall apply to deeds of disposal executed on the basis of these contracts.

<sup>2</sup> Save as otherwise provided, these contracts shall not apply to the rights established by the present Law.

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<sup>9</sup> Introduced by Ch. 3 of the annex to the Law of Dec. 19, 2003 on Electronic Signatures, in force since Jan. 1, 2005 (RS **943.03**).

<sup>10</sup> Repealed by Ch. 20 of the annex to the Law of June 17, 2005 on the Federal Administrative Court, with effect from January 1, 2007 (RS **173.32**).

**Section 3      Referendum and entry into force****Article 21**

<sup>1</sup> The present Law shall be the subject of an optional referendum.

<sup>2</sup> It shall enter into force on the same date as the Law of October 9, 1992 on Copyright.<sup>11</sup>

Date of entry into force:<sup>12</sup> July 1, 1993

Article 17: January 1, 1994

  

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<sup>11</sup> **RS 231.1**

<sup>12</sup> ACF of April 26, 1993 (RO **1993** 1833).