

Regulations for the Implementation of Law No. 11 of May 3, 1988, for the Legal Protection of the Topographies of Semiconductor Products

(approved by Royal Decree No. 1465 of December 2, 1988)*

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Place of Submission

1.—

(1) An application for registration, in accordance with Section 4(1) of Law No. 11 of May 3, 1988, may be made:

- (a) directly to the Registry of Industrial Property;
- (b) to the Provincial Directorates of the Ministry of Industry and Energy, except in the case provided for in subparagraph (c), below;
- (c) to the competent bodies of the Autonomous Communities whose competence in respect of industrial property has been recognized;
- (d) at post offices, in accordance with Section 66(3) of the Law on Administrative Procedure of July 17, 1958.

(2) In the cases covered in subparagraphs (b) and (c), the administrative unit having received the application shall transmit it to the Registry of Industrial Property.

* *Spanish title*: Reglamento para la ejecución de la Ley 11/1988, de 3 de mayo, para la protección jurídica de las topografías de los productos semiconductores.

Entry into force: December 9, 1989.

Source: *Boletín Oficial del Estado* of December 8, 1988, No. 294, pp. 34680.

** Added by WIPO.

Applications

2.—

- (1) An application for registration of a topography of a semiconductor product may only comprise and make reference to a single topography.
- (2) An application for registration shall include:
 - (a) an application request;
 - (b) a description;
 - (c) an identification or graphic representation;
 - (d) additional documents, where appropriate.
- (3) The application shall be accompanied by proof of payment of the tax stipulated in paragraph (4)(i) of the first Additional Provision of Law No. 11 of 1988.

Application Request

3. The application by which registration is requested shall be addressed to the Director of the Registry of Industrial Property and signed by the applicant or his representative. It shall contain the following information:

- (a) that legal protection of the topography of a semiconductor product is requested;
- (b) the full name or corporate name of the applicant, his nationality and domicile. Bodies corporate may be identified by their business or in accordance with the legal provisions by which they are governed. Physical persons shall provide the number of their national identity card or, in the absence of such, of a similar document;
- (c) the name of the creator or creators of the topography of the semiconductor product; where the applicant is not the creator or sole creator, a statement shall be included on how he has acquired the right to the topography;
- (d) the date of the first non-secret commercial exploitation of the topography of the semiconductor product, where such date is prior to the date of submission of the application for registration;
- (e) where the applicant is represented by an industrial property agent, the name of the latter, his professional domicile and his identity code;
- (f) a short, precise title of the topography of the semiconductor product. The title may include the names of the products which comprise the topography and the field of application of the topography;
- (g) a statement indicating that the topography of the semiconductor product is the result of the intellectual effort of its creator and is not current in the semiconductor industry;
- (h) a list of the documents annexed to the application.

Description

4. The description of the topography of the semiconductor product shall include a clear, concise text, which may contain references to the graphic representation.

The intended use or uses of the topography may be indicated in the description.

Identification or Graphic Representation of the Topography

5.—

- (1) The identification or graphic representation shall comprise, in such a manner as to reveal the three-dimensional structure, sketches, photographs or both, of:
 - (a) manufacturing schema for the semiconductor product;

- (b) masks or part of masks for the production of the semiconductor product; or
- (c) the layers of the semiconductor product.

(2) In addition to the documents mentioned which identify or represent the topography, data support in which the layers of the topography are recorded in coded form, lists of such data support or samples of the topography of the semiconductor product may be submitted.

(3) Where material is deposited in the form of samples of the topography of the semiconductor product, the fee specified in paragraph (4)(ii) of the first Additional Provision of Law No. 11 of May 20, 1988, shall be paid.

(4) In the event of any trade secret, the applicant shall submit, in addition to the original copy of the documents and material referred to in the preceding paragraphs, a second copy with the secret parts struck out. Only the latter copy shall be submitted for public consultation.

The secret parts may be marked with the letter "S."

Supplementary Documents

6. Where appropriate, the application shall be accompanied by the following supplementary documents:

- (a) an authorization signed by the applicant in favor of the industrial property agent representing him;
- (b) a statement contained in a public document referring to the date when the first non-secret commercial exploitation of the topography of the semiconductor product was started, where such date is prior to the date of submission of the application for registration;
- (c) a statement relating to the parts of the documents and the material identifying or representing the topography of the semiconductor product which are a trade secret. In all cases the topography shall be identified.

General Rules Relating to the Submission of Documents for the Application

7. All documents for the application for registration shall be submitted in triplicate in A4 (29.7 x 21 cm) format. Where it proves to be necessary to submit documents exceeding that format, they shall be folded to A4 format.

Receipt of Documents

8.—

(1) The official in the administrative unit who receives the document shall record the date, hour and minute of its receipt, establish whether the documents referred to in the application have been annexed thereto and transmit it, where appropriate, to the Registry of Industrial Property.

Where the documents have been transmitted through a post office, the date, hour and minute of their receipt shall be recorded.

(2) The applicant shall be provided with proof of submission of the document.

Date of Submission

9.—

(1) For the purposes of Section 7(1)(b) of the Law, the date of submission shall be deemed to be the date on which the following documents are submitted in accordance with Section 1(1) of these Regulations:

- (a) the application for registration;
- (b) the description of the topography;
- (c) the identification or graphic representation of the topography;
- (d) the proof of payment of the fee for the application for registration.

(2) The Registry of Industrial Property shall automatically reject within 10 days of receipt in its offices any application which does not contain the documents referred to in the preceding paragraph and shall notify the person concerned to that effect.

Consideration of the Application

10.—

(1) Once the application has been accepted for processing, it shall be examined at the Registry of Industrial Property to verify that it conforms to the provisions of Sections 2 to 7 of these Regulations.

(2) It shall also be verified:

- (a) that the fee for the deposit of the material has been paid;
- (b) that the date of submission of the application falls within the two preceding years, reckoned from the date when the first commercial exploitation started.

(3) Where, as the result of the examination referred to in the previous subsection, there is a defect in the application for registration, the Registry of Industrial Property shall inform the applicant of the objections so that he may within two months remedy the defect or make any observations which he considers appropriate in defense of the application for registration.

Decision

11.—

(1) Where the examination carried out in accordance with the provisions of Section 10 shows no defect preventing a favorable decision or when such defects have been duly remedied, the Registry of Industrial Property shall grant registration.

(2) The Registry of Industrial Property shall reject the application for registration when defects remain which have not been duly remedied in the period authorized for that purpose.

(3) Information relating to the acceptance or rejection of the application together with the necessary information for the identification of the application shall be published in the *Boletín Oficial de la Propiedad Industrial*.

Registration of Topographies

12.—

(1) The Registry of Industrial Property shall keep a Register of the Topographies of Semiconductor Products in which the data identifying applicants shall be recorded together with the relevant information concerning the processing of applications for protection including those which will subsequently affect their legal existence.

(2) In particular, the Register shall contain, where such procedure has been followed, mention of the date of the first non-secret commercial exploitation of the topography of the semiconductor product, when that date is prior to the date of submission of the application for registration.

Public Consultation

13.—

(1) The Register of Topographies of Semiconductor Products shall be open for consultation by the public.

(2) Moreover, once notice of registration has been published, all the documents of the application and, where appropriate, the sample of the topography of the semiconductor product shall be made available to the public, on condition that no trade secret is entailed.

(3) The documents and samples mentioned in subsection (2) may not be copied or transmitted without the authorization of the registered holder.

ADDITIONAL PROVISION

Additional Application of Patent Legislation

In the absence of an expressly applicable rule, the provisions of the Regulations for the Implementation of Law No. 11 of March 20, 1986, on Patents shall govern matters concerning the topographies of semiconductor products, except where such provisions are incompatible with the special nature of such products. *Inter alia*, the rules relating to the procedure for the granting and transmission of patents shall be applicable to such products.