

Law of the Kyrgyz Republic on Legal Protection of Integrated Circuits Topography

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General Terms

1. General terms used in the present Law:

- *integrated circuit (hereinafter, IC)* is a micro-electronic article of complete or interim form aimed at the execution of electronic scheme functioning, elements and connections of which are inseparably formed in the volume and (or) on the surface of the material on the basis of which the article was manufactured;

- *integrated circuits topography (hereinafter, topography)* is a spatial geometric arrangement of aggregate of integrated circuits elements fixed on the material carrier and connections among them;

- *use with commercial purposes* is the sale, lease or any other way of commercial distribution as well as offer to perform these actions.

In the present Law the right owner shall be understood as the author or his heir, and any physical or legal entity who possesses exclusive proprietary rights acquired by virtue of the Law or an agreement.

Relationships Regulated by the Present Law

2. This Law shall regulate the relationships connected with creation, legal protection and use of topography.

The State Intellectual Property Agency under the Government of the Kyrgyz Republic (hereinafter—Kyrgyzpatent) shall provide the state regulation in the area of topography protection.

Objects and Conditions of Legal Protection

3. Legal protection provided by this Law shall be extended to the original topography only.

Topography shall be original if it is created in the result of creative activity of the author. Topography shall be recognized original until otherwise is proved.

Topography, the aggregate of elements of which is known to the elaborators and manufacturers of IC as of the date of its creation shall not be given legal protection by this Law.

Topography consisting of elements, which are generally known to elaborators and manufactures of IC as of the date of its creation shall be given legal protection only in case the aggregate of such elements in general meets the requirements of paragraph 2 of the present Article.

Legal protection provided for in this Law shall not extend to ideas, methods, technologies or coded information that may be embodied in topography.

Authorship to Topography

4. Author of topography shall be a physical person by whose creative work this topography has been made.

If several physical persons created topography, each of them shall be recognized as the author of such topography.

Physical persons who have not contributed personal creative input in the creation of topography but who have rendered the author only technical, organizational or financial assistance or have facilitated the perfection of right to use topography.

Right of authorship to topography shall be unalienable personal non-property right and shall be protected by the Law without time limits.

Economic Rights

5. The author or other right owner shall have an exclusive right to use this topography at his discretion in particular by the way of manufacture and distribution of IC with such topography including the right to prohibit the use of this topography to other persons without relevant permission, except for the cases provided for in Article 8 of this Law.

The procedure for using of the rights belonging to several authors of topography or other right owners shall be determined in the agreement between them.

Should no agreement be achieved, each of them may use the protected object at his discretion, but has no right to provide a contract on full assignment of all economic rights to registered topography without the consent of other right owners. In case of failure to achieve an agreement between the right owners on concluding a contract on full assignment of all economic rights the court may settle the dispute between them.

Infringement of the exclusive right to use topography shall be accomplishment of the following actions without authorization of the author or any other right owner:

- copying of topography in whole or in part by way of its inclusion in IC or in any other way, with the exception of copying only the part which is not original;

- use, importing, offer to sale, sale and other introduction into business turnover of topography or IC with this topography.

Assignment of Economic Rights

6. Economic rights to topography may be assigned in full or in part to other physical or legal entities under the agreement.

The agreement shall be formalized in writing and must contain the following conditions: volume of the rights transferred, ways of use of topography, payment order, the amount of remuneration, territory and the effective term of agreement.

Agreement on the assignment of economic rights or licensing agreement for the registered topography shall be registered at Kyrgyzpatent.

Agreement on the transfer of economic rights to topography shall not be valid without registration at Kyrgyzpatent.

Economic rights to topography shall succeed by heritage in the order established by the Law.

Economic Rights to Topography Created in the Course of Execution of Service Duties and under the Contract with the Customer

7. Economic right to topography created in the course of executing service duties or specific tasks of the employer shall belong to the employer, unless otherwise provided for in the agreement between him and the author.

The procedure of payment and the amount of remuneration shall be stated by the agreement between the author and the employer.

Economic rights to topography created by the author under the contract with the customer other than his employer shall belong to the customer unless otherwise provided in the contract.

Actions Not Recognized as Infringement of the Exclusive Right to the Use of Topography

8. Following shall not be recognized the infringement of exclusive right to exploitation of topography:

- use of lawfully purchased IC or articles containing such IC if the person using them did not know or was not to know that these IC or articles containing such IC were manufactured and distributed with infringement of exclusive right to use of topography. After receipt of the appropriate notification from the right owner of topography this person shall pay commensurate compensation for each IC or each article containing such IC;

- use in personal interests without generating profits and with the purpose of evaluation, analysis, research or training;

- distribution of IC with protected topography introduced into business turnover by lawful means.

No infringement of exclusive right to use of topography shall be actions indicated in paragraphs 4 of Article 5 of the present Law executed in relation to identical original topography independently, created by another author.

Registration of Topography

9. The author of topography or other right owner at his discretion may register topography directly or through his representative at Kyrgyzpatent by filing an application for official registration of IC topography (hereinafter, application for registration).

Filing of the application for registration can be performed during the period not exceeding two years from the date of first use of topography if it took place.

Application for registration must concern one topography and shall contain the following:

- application for official registration of IC topography with indication of the right owner and the author if he did not refuse to be mentioned as such, their place of location (place of residence), date of the first use of topography if it took place;
- deposited materials, identifying topography, including;
- the novelty of topography shall be indicated in the essay;
- scheme of dimensional and geometrical disposition of elements of IC topography;
- the document confirming payment of registration fee in the established amount or grounds for exemption from the payment of registration fee and also for reduction of its amount.

Kyrgyzpatent shall determine other requirements to the documents of application for registration.

After receipt of the application for registration Kyrgyzpatent shall check the availability of necessary documents and their compliance with the requirements set forth in paragraph 3 of the present Article. During two months after filing the application with Kyrgyzpatent the applicant has the right to add, clarify and correct documents of the application.

Examination of application shall be performed within 6 months.

In case of positive results of examination, Kyrgyzpatent shall enter the topography into the State register of integrated circuits topography of the Kyrgyz Republic, publish information on registered topography in the official bulletin of Kyrgyzpatent and issue a certificate of official registration of topography to the applicant.

Kyrgyzpatent therein shall establish the procedure of official registration, form of certificate on official registration, composition of the specified data. Kyrgyzpatent shall also determine the list of data published in the official bulletin.

The information entered into the State register of topographies of integrated circuits of the Kyrgyz Republic shall be considered authentic until otherwise proved.

Liability for authenticity of the indicated information shall be with the applicant.

Registration fees shall be collected for carrying out actions connected with the official registration of integrated circuits topography, agreements on the transfer of rights and publication of the information.

The Government of the Kyrgyz Republic shall establish amounts, terms of payment of registration fees and grounds for exemption from payment or their reduction.

All money resources coming to the Kyrgyzpatent's account as fees, including those in foreign currency are used by the Kyrgyzpatent for covering expenses connected with carrying

out activities envisaged by the present article, and also for creating, equipping and using an automated system, training and motivating the staff.

The author of topography or his legal successor shall have the right to indicate in the protected topography and articles including such topography a notification thereof in the form of letter T («T», [T], T, T* or T) in order to inform about his rights, date of start of validity period of the exclusive right to use of topography and information which allows to identify the right owner.

Effective Term of Exclusive Right to Use Topography

10. Exclusive right to use of topography shall be valid for ten years.

The start of validity period of exclusive right for use of topography shall be defined on earliest of the following dates:

- on the date of the first use of topography, which means the earliest documentarily fixed date of introduction of this topography or IC with this topography into economic turnover somewhere in the world;
- on the date of registration of topography at Kyrgyzpatent;

In case of appearance of identical original topography independently created by another author, total validity period of exclusive right for exploitation of topography may not exceed ten years.

Protection of Rights to Topography

11. The author of topography and other right owner shall have the right to demand:

- recognition of rights;
- restoration of the situation existent before infringement of the right and cessation of actions infringing the right or threatening to infringe it;
- reimbursement of losses the amount of which also includes the amount of revenues unlawfully obtained by the infringer;
- besides indemnification of inflicted losses the court may rule to impose a fine in the amount of 10% of the amount ruled by the court in favor of the plaintiff to the budget of the Kyrgyz Republic;
- adoption of other measures connected with the protection of their rights provided by normative legal acts;

The author or other right owner may apply to the court by the established procedure for protection of his right.

In addition to covering losses the court may take a decision to charge a fine of 10% of the amount awarded to the plaintiff by the court, to the revenue of the state budget of the Kyrgyz Republic.

The court may render a ruling on confiscation of illegally manufactured copies of IC and articles including such IC, as well as materials and equipment used for manufacture thereof and on destruction thereof or transfer to the budget of the Kyrgyz Republic or to the plaintiff at his request as indemnification of losses.

Protection of Rights to Topography in Foreign Countries

12. The author or other right owner may seek for legal protection of topography in foreign countries after registration of the corresponding application at Kyrgyzpatent. Noncompliance with this provision shall entail the liability envisaged by the legislation of the Kyrgyz Republic.

Expenses related to obtaining legal protection of topographies in foreign countries shall be with the person seeking for such protection or other natural person or legal entity by the agreement with him.

Rights of Foreign Natural Persons and Legal Entities

13. Foreign physical persons and legal entities shall enjoy the rights envisaged by the present Law equally with natural persons and legal entities of the Kyrgyz Republic by virtue of international treaties of the Kyrgyz Republic or on the basis of reciprocity principle.

International Treaties

14. If the international treaty of the Kyrgyz Republic establishes rules other than those that are included into the present Law the rules of the international treaty shall be applied.

Implementation of the Present Law

15.—(1) The law shall come into force since the moment of its publication. (“Erkin Too—Free Mountains”, April 10, 1998, # 43-44)

(2) The Law of the Kyrgyz Republic “On Legal Protection of Integrated Circuits Topography” extends to relations connected with creation and use of integrated circuits topographies, which appeared after implementation of the present Law.

The present Law shall be valid to relations which appeared before publication of the present Law in case the integrated circuits topography have been registered at Kyrgyzpatent for two years since the date of publication of the present Law.

(3) The Government of the Kyrgyz Republic shall be authorized to bring to compliance all normative acts and regulations with the present Law.

The President of the Kyrgyz Republic
A. Akaev

Adopted by the Legislative Assembly of Jogorku Kenesh of the Kyrgyz Republic
March 2, 1998
