

Law on amendments to the Law on Protection of Topographies of Semiconductors

("Official Gazette of Montenegro", No. 40/16)

Article 1

In the Law on Protection of Topographies of Semiconductor (Official Gazette of Montenegro, No. 75/10), in Article 2 after paragraph 3 a new paragraph shall be added to read as follows:

“The right to protection of topography shall also apply to legal successors of the persons referred to in paragraphs 1 to 3 of this Article.

Article 2

In Article 5 paragraph 3 shall be deleted.

Article 3

In Article 7 paragraph 2 the introductory sentence shall be amended to read as follows:

“The holder of the protected topography referred to in paragraph 1 of this Article shall be entitled to authorise or prohibit to other persons:”

In item 2, the words: "importing or marketing" shall be replaced by words: "commercial exploitation or the importation for the purpose of the commercial exploitation."

After paragraph, 4 a new paragraph shall be added to read as follows:

“The exclusive rights to authorize or prohibit commercial use or importation for the purpose of commercial use of protected topography or semiconductor manufactured by using the protected topography shall be exhausted after putting the protected topography or the semiconductor on the market by the person entitled to authorise or with his/her explicit consent, on the territory of the European Union, or contracting parties of the European Economic Area.”

Article 4

In Article 11 after paragraph 3 two new paragraphs shall be added to read as follows:

"Where the exclusive rights come into existence in accordance with paragraphs 1, 2 and 3 of this Article, the persons referred to in Article 2 of this Law shall have the right to protection of topography in accordance with the provisions of this Law for the period prior to those rights coming into existence, provided that they prove that another person has fraudulently reproduced or commercially exploited or imported for that purposes a topography.

The provision of paragraph 4 of this Article shall be without prejudice to legal remedies for enforcement of the exclusive rights conferred in accordance with Article 6 paragraphs 2 and 3 of this Law. "

The current paragraphs 4 and 5 shall become paragraphs 6 and 7.

Article 5

In the title of the Chapter V. the word "CIVIL" shall be deleted.

Article 6

Article 14 shall be amended to read as follows:

"Application of provisions of other regulations Article 14

Provisions of the law governing patents shall apply accordingly to the filing of an action concerning the violation of topography rights, establishing the violation of the rights, filing of request for termination of violation of the rights, seizure and destruction of objects, damage compensation, burden of proof, publishing of the judgement, provisional measures, securing of evidence, obtaining of evidence, obligation of providing information, alternative measures, determining the persons entitled for applying for protection of rights, urgency in proceeding as well as other issues concerning civil law protection."

Article 7

After Article 15 two new chapters and two new articles shall be added to read as follows:

"Va. SUPERVISION

Supervision over implementation of the Law Article 15a

Supervision over implementation of this Law and legislation adopted on the basis of this Law shall be carried out by the Ministry.

Inspection supervision over implementation of this law shall be carried out by the public administration authority in charge of inspection supervision activities, through Market Inspectorate.

Provisions of the law governing patents shall apply accordingly to inspection supervision issues.

Vb. PENALTY PROVISIONS

Misdemeanours against protected topography

Article 15b

A fine ranging from EUR 2,000 to EUR 10,000 shall be imposed to a legal person which, without authorisation from the holder of the protected topography or other person authorised to give such authorisation:

- 1) Reproduces protected topography in any way or in any form (Article 7 paragraph 2 item 1);
- 2) Commercial exploits or the imports for the purpose of the commercial exploitation topography or semiconductor manufactured by using the protected topography (Article 7 paragraph 2 item 2).

For the misdemeanour referred to in paragraph 1 of this Article a fine ranging from EUR 500 to EUR 2,000 shall also be imposed to a natural person and the person responsible in the legal person.

For the misdemeanour referred to in paragraph 1 of this Article a fine ranging from EUR 1,300 to EUR 6,000 shall also be imposed to an entrepreneur.

For the misdemeanour referred to in paragraph 1 of this Article, a protective measures of seizure of objects that have been mainly intended or used in the committing of misdemeanour or that were produced during the misdemeanour shall be imposed, and these shall be destroyed mandatory.

Article 8

After Article 17 a new Article shall be added to read as follows:

„Deferred application

Article 17a

The provision of Article 7 paragraph 5 of this Law shall apply from the date of accession of Montenegro to the European Union.”

Entry into force

Article 9

This Law shall enter into force on the eighth day from the day of its publishing in the Official Gazette of Montenegro”.