

Rules on the Registration of the Topographies of Integrated Circuits*

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Rules on the Registration of the Topographies of Integrated Circuits

(approved by Decision no. 535 of July 4, 1996 of the Government of Romania published in “ Monitorul Oficial al României ”, Part. One, No. 72 of August 1, 1996)

Rule 1 General provisions

1) The topographies of integrated circuits shall be protected on the territory of Romania in the conditions provided by Law no. 16/1995 on the Protection of Topographies of Integrated Circuits, published in “ Monitorul Oficial al României ”, Part One, no. 45 of March 9, 1995, while observing the conventions, treaties and agreements where Romania is a party.

2) These rules lay down the conditions and the procedure for the registration of the topographies of integrated circuits.

Rule 2 Definitions

For the purposes of these rules

- “ law ” means Law no. 16/1995 on the Protection of the Topographies of Integrated Circuits;
- “ SOIT ” means The State Office for Inventions and Trademarks;
- “ topography ” means a topography of an integrated circuit, as it was defined in Article 2 of the Law;
- “ application ” means the application for the registration of a topography;
- “ applicant ” means a person who applies for the registration of a topography and is mentioned as such in the application;

* Romanian title: Regulament privind înregistrarea topografiilor circuitelor integrate

Source: “ Monitorul Oficial al României ” of August 1, 1996, No. 172, Part. 1, pp. 4–8; English translation by the State Office for Inventions and Trademarks

** Added by State Office for Inventions and Trademarks

- “proprietor” means the person in whose name the topography was registered at SOIT and to whom the rights conferred by the registration of the topography belong;
- “official date of registration” means the official date of filing.

Rule 3

Requirements for registration of topographies

SOIT shall register the topographies in the National Register of Topographies, if the following requirements are complied with:

- a) the subject-matter of the application meets the legal requirements of protection provided in the Articles 2 and 3 of the Law;
- b) the applicant has the right to the protection of the topography which is the subject-matter of the application, in accordance with Articles 6, 8 and 9 of the Law;
- c) the regular filing of the application has been made in accordance with Article 5 of the Law;
- d) the topography was not registered with SOIT previously;
- e) the application was filed with SOIT within 2 years of the date of the first commercial exploitation of the topography or, where appropriate, if the topography had not been exploited commercially, the application was filed with SOIT before the end of the fifteen-year period from the date when the topography was created or coded for the first time.

Where one or more requirements provided by lett. a) – e) are not met, the topography cannot be registered; consequently, SOIT shall refuse the application.

Rule 4

Subject-matter of application

1) The applications for registration shall have as subject-matter only topographies as defined by Article 2 of the Law.

The following items cannot be the subject-matter of an application:

- designs, technological processes and means employed for the manufacturing of topographies or integrated circuits;
- information stored in integrated circuits;
- integrated circuits that can be manufactured using these topographies;
- other creations that can be called topographies but which do not correspond to the meaning defined in Article 2 of the Law.

The applications which have as their subject-matter creations belonging to the category mentioned in paragraph 2 shall be refused.

2) The applicant may claim the originality of the topography as a whole or only of a part of it.

Where only a part of the topography is original, the protection conferred by registration shall refer only to the part claimed; the non-original part of the topography is not subject-matter of protection.

A topography which is made up of a combination of commonplace elements and interconnections shall be deemed original if only the whole combination is original; an original combination may also be made up of commonplace elements and interconnections associated with original elements and interconnections.

3) An application shall be unitary, namely, it shall have as subject-matter only one topography.

The topography which has two or more topographies as subject-matter shall be deemed non-unitary and the applicant shall have the possibility of dividing it into as many unitary applications as the topographies being the subject-matter of the application.

Where there is a non-unitary application, only one topography shall be its subject-matter, namely, the one indicated by the applicant, within two months of the date when SOIT had notified him that the application was non-unitary; where the applicant does not indicate within the above-mentioned period which topography is to be kept as the subject-matter of the application, then, the first of the topographies mentioned in the application shall be the subject-matter.

Applications filed subsequently by the applicant, having as subject-matter the other topographies of the non-unitary application shall be deemed as divisional applications of the filing of this application if they

are filed with SOIT within 3 months from the date of the notification of the lack of unity and shall receive as date of filing the date when the initial non-unitary application was filed; if they are filed with SOIT after the expiration of the above-mentioned period of three months, they shall no longer be recognized as divisional applications and the date of filing given to them shall be the date when they have been received at the general registry of SOIT.

The lack of unity of the application cannot be a ground for its refusal.

Rule 5 Regular filing of application

1) An application for registration shall be deemed as having been regularly filed if two copies of the following documents are filed with SOIT:

- a) the application for registration, drawn up according to the provisions of Rule 7 and signed;
- b) the technical documentation necessary for the identification of the topography and for pointing out the electronic function of the integrated circuit that can be manufactured using the topography, drawn up according to the provisions of Rule 8;
- c) the integrated circuit manufactured on the basis of the topography, if the topography was exploited commercially;
- d) the power of attorney, where an attorney has been appointed;
- e) the receipt of the payment of the fees for filing the application, examination of the application, registration of the topography, publication of the registration of the topography and issuance of the certificate of registration of the topography.

The official date of the regular filing shall be the date provided in Article 14, paragraph 2 or, where appropriate, Article 15 paragraph 3 of the Law.

2) The regular filing shall be annexed all the documents concerning the application filed by the applicant or by his representative subsequently, the documents drawn up by the examining division for solving the application as well as the correspondence held by SOIT with the applicant or his professional representative.

Rule 6 Official language

All the documents filed with SOIT with reference to the protection of topographies as well as the correspondence held by SOIT with the applicants and their professional representatives shall be drawn up in Romanian.

Use of certain specialized technical terms in English, if said terms have been taken over and employed as such in Romanian by the specialists in the field, is accepted for the technical documentation of the regular filing. Otherwise, these terms may be employed only when they are accompanied by their Romanian equivalents.

Rule 7 Application for registration of topography

1) The application for the registration of a topography shall be typed on a form according to the pattern set up by SOIT and made available to the public.

2) The application shall comprise:

- a) the identifying data of the applicant consisting of:
 - the full name and, where appropriate, the designation of the applicant;
 - the full address of the applicant, phone, fax and telex numbers included.

Where there are more applicants, the identifying data shall be given for each of them separately.

Where the foreign legal persons have agencies in Romania, the names of said agencies and their location shall be specified.

b) the declaration of the creator of the topography, in case he is different from the applicant. The full name and residence of the creator shall be mentioned.

Where there are more creators, co-authors, the same information shall be furnished for each of them.

Where the creators of the topography do not wish to have their names and capacity as creators of the topography written in the certificate of registration and/or printed in the publications of SOIT concerning the registered topography, the applicant shall make a statement to that purpose in the application, and shall write the names of the creators only on one copy of the application.

c) the indication of the right on the basis of which the applicant is entitled to the protection of the topography: the applicant is the creator of the topography (Article 8 of the Law), the topography was created in the course of the official duties (Article 9 par. 1 of the Law) or on the basis of a research / design contract (Article 9, par. 2 of the Law), the provisions of a contract apply (Article 9, par. 3 of the Law), the applicant got the right to register the topography by assignment or succession (legal or testamentary).

d) the name and destination of the integrated circuit that can be manufactured using the topography. The name of the circuit shall be brief, preferably 15 words at most.

e) the declaration of the applicant that the topography was not registered with SOIT previously.

f) the declaration of the applicant concerning the originality of the topography. It shall specify whether the topography is original as a whole or the originality concerns only a part of the topography; in the latter case, it shall specify the manner in which the original part is pointed out in the technical documentation attached to the application.

g) the declaration of the date of the first commercial exploitation if the topography was exploited commercially.

h) the declaration of the date when the topography was created or when it was coded first.

i) the identifying data of the professional representative, where a professional representative has been appointed. The identifying data shall be similar to those mentioned for the applicant at lett. a).

Where there are two or more applicants and no professional representative has been appointed, they shall specify who among them is their representative in the procedures before SOIT; where no such mention is made, SOIT shall consider the first applicant mentioned in the application as being their representative.

j) the list of the documents annexed to the application.

k) the signature of the applicant(s). Where the applicant is a legal person, the application shall be signed by the manager of the establishment and stamped.

Where a professional representative has been appointed, he may sign the application on behalf of the applicant if the power of attorney (representative's authorisation to represent the applicant) will be filed with SOIT together with the application or within two months of the date of filing at the latest; failure to comply with this requirement results in the refusal of the application.

Rule 8

Technical documentation for identification of topography

1) The technical documentation for the identification of the topography shall comprise graphical materials and an explanatory text.

2) The graphical materials shall be presented under one or more of the following forms:

a) the drawing or photo representing the configuration of the set of layers of the integrated circuit;

b) drawings or photos of the individual layers of the integrated circuit.

c) drawings or photos of the masks employed for the manufacturing of the integrated circuit.

3) The drawings and photos shall be clear and made at a scale which is large enough as to make possible the identification of the topography.

Format A4 or another format, which by folding is made into format A4, shall be employed.

4) Where only a part of the topography is original, the said part shall be pointed out distinctly in the graphical materials.

5) Where the applicant declares that an area of the graphical materials identifying the topography comprises trade secrets, said area shall be covered by hatching or differently, in one of the copies of these

graphical materials; the second copy of the said graphical materials shall not be covered ensuring, thus, that all the information necessary for the identification of the topography can be found in the filing of the application.

6) The explanatory text shall be brief and shall comprise the presentation of the minimum information necessary for the identification of the topography, the pointing out of the original part of the topography (where appropriate), the pointing out of the electronic function of the integrated circuit and the specification of the destination of this circuit.

7) The name of the integrated circuit as it was mentioned in the application shall be written in all the documents identifying the integrated circuit.

8) Besides the materials mentioned at 1) and 6) above, the applicant may also file with SOIT data carriers where the topography is registered under a coded form.

Rule 9 Payment of fees

1) The fees owed for the registration of a topography or for services rendered by SOIT under the provisions of Article 44 of the Law shall be deemed as paid if they have entered SOIT bank account in the amounts provided by the Law and if a copy of the receipt(s) of payment has been filed with SOIT.

2) The sums paid in lesser amounts than the legal ones shall not be deemed as payment of fees; if later, these sums are completed to the level of the amount provided by the Law, those fees shall be deemed as paid on the date when the sum corresponding to the legal amount has been completed.

3) The applicants who benefit of the reduction of the amount of fees or of an exemption from the payment of fees, under the provisions of Article 44, par. 2, 3 and 4 of the Law, shall file with SOIT the probative documents showing that they come within the scope of one of the above-mentioned paragraphs. Where there is one application with more applicants, each of them shall prove with adequate documents, that they come within the scope of the corresponding paragraph that provides for the reduction of fees or the exemption from the payment of fees.

If the documents proving the applicant's right to the reduction of fees or, where appropriate, to the exemption from the payment of fees are not filed, the applicant shall owe the full payment of fees.

Rule 10 Representation by professional representative

1) Any applicant may be represented in the procedures before SOIT by an authorized professional representative having his residence or place of business in Romania.

2) Only an industrial property attorney, authorized by SOIT for the field of the protection of the topographies of integrated circuits and registered in the National Register of Industrial Property Attorneys may be a professional representative.

3) The professional representative may be appointed by the applicant upon filing the application or later.

Where the applicant is a foreigner residing abroad, the representation by a professional representative is mandatory as early as the filing of the application.

4) In all the cases where a professional representative has been appointed, it shall be necessary to file with SOIT the power of attorney which is the authorisation of the professional representative. Where the power of attorney is missing, SOIT shall not take into consideration the representation by a professional representative mentioned in the application or in other documents.

Rule 11 Filing of applications

The applications for the registration of topographies may be filed directly at the General Registry of SOIT open for the public during the working days or may be mailed to SOIT by registered letter with confirmation of receipt.

The General Registry shall write the serial number of entry and the date of reception at SOIT on each application filed directly or by mail; afterwards, it shall send the application to the topography examining division.

Rule 12 Examination of applications

1) The topography examining division shall set up a record file of the applications for the registration of topographies, comprising all the applications which have the document proving that at least the filing and examination fees have been paid.

Those applications for which no filing and examination fees have been paid shall be returned to the applicant accompanied by a notification specifying the reason of that return. SOIT shall keep a copy of the application as evidence.

2) The applications comprised in the record file of the topography examining division shall be examined from the point of view of the compliance with the requirements for the registration of the topographies mentioned by Rule 3.

3) Where, upon examining the application, it is found that the requirements for the regular filing as well as the legal ones for the grant of protection are met, the topography shall be registered in the National Register of Topographies; the official date of filing shall be the date when the application has been filed with SOIT.

4) Where, upon examining the application, it is found that there are omissions or deficiencies in the documents required for the regular filing, the examiner shall notify them to the applicant, within 15 days of the filing date, allowing him to remedy said omissions or deficiencies within a period of 2 months.

Where the applicant files all the required completions and rectifications within the prescribed time limit, the application shall be deemed as having been regularly filed and the topography shall be entered in the National Register of Topographies; then, the official date of filing shall be the date when SOIT has received all the necessary completions and rectifications.

Where, within the prescribed time limit, the applicant does not file with SOIT the required completions and rectifications, the application shall be refused.

5) Where, upon examining the application, it is found that

- the subject-matter of the application cannot be deemed a topography under Article 2 of the Law;
- the applicant is not entitled to the protection of the topography which is the subject-matter of the application;
- the topography was previously registered with SOIT;
- the application was filed after the expiration of the period of two years from the date of the first commercial exploitation of the topography;
- the topography has not been exploited commercially and the application for registration was filed after the expiration of the fifteen-year period from the creation or first coding of the topography, the examiner of the application shall notify the applicant what has been found and the fact that the legal requirements for the registration of the topography are not met, giving him a period of 2 months for reply.

If, within the set period, the applicant does not file with SOIT arguments and, where appropriate, relevant documents proving that the legal requirements for the registration of the topography are met, the application shall be refused.

6) Where, upon examining the application, it is found that the application is not unitary, the examiner of it shall notify the applicant what he has found, in accordance with the provisions of Rule 4 item (3) on the manner of solving non-unitary applications.

Rule 13 Decision solving application

1) The decision solving the application shall be taken on the basis of an examination report and shall be motivated.

2) The decision shall be taken within the time limits of and according to the provisions of Articles 14 and 15 of the Law; it can be:

- a decision to register the topography in the National Register of Topographies;
- a decision to refuse the application for the registration of the topography.

3) The decision to register the topography shall be communicated to the applicant together with the certificate of registration of the topography.

4) The decision to refuse the application shall be communicated to the applicant within 15 days of the decision making.

5) Where, during the examination of the application, the applicant notifies SOIT that he requests the withdrawal of the application, abandons the application or any other request signifying the renunciation to the registration of the topography, the examination of the application shall cease and minutes shall be drawn up whereby SOIT takes cognizance of the request. The minutes shall be communicated to the applicant, respectively to the professional representative, within fifteen days from the date of the minutes.

Rule 14

Registration of topographies

1) The decision to register a topography is written in the National Register of Topographies.

2) The official date of registration is the date of filing of the application for registration.

3) The National Register of Topographies shall comprise all the data on the legal status of the registered topographies as well as any changes occurring during the term of protection.

4) The National Register of Topographies shall comprise at least the following columns:

- the registration number of the topography;
- the number and date of filing;
- the name of the integrated circuit that can be manufactured using the topography;
- the official date of filing;
- the date of the first commercial exploitation of the topography;
- the date of creation or of the first coding of the topography;
- the identifying data of the proprietor;
- the full name, place and country of residence of the creator(s) of the topography;
- the identifying data of the professional representative;
- assignments;
- licences;
- the changes concerning the proprietor;
- the changes concerning the creator(s);
- the cessation of protection.

Rule 15

Issuance of certificate of registration

The certificate of registration of a topography is drawn up on the basis of the decision to register a topography.

The certificate of registration signed by the Director General of SOIT shall be issued to the proprietor within 3 months of the official date of filing.

Rule 16

Publication of topography registration

1) SOIT publishes the registration of the topographies in the Official Bulletin of Industrial Property (BOPI) – section “ Patents for invention ” – subsection “ Topographies of integrated circuits ”.

2) The publication shall be carried out within 2 months from the date of issuance of the certificate of registration and shall comprise the following data:

- the registration number of the topography;
- the official date of filing;
- the name of the integrated circuit that can be manufactured using the registered topography;
- the name/designation of the proprietor;

- the full name of the creator(s) of the topography;
- the date of the first commercial exploitation;
- the date of creation or of the first coding of the topography;
- the term of protection.

3) SOIT publishes in the Official Bulletin of Industrial Property all the changes referring to the registered topographies, in accordance with the provisions of Article 17, par. 2, Article 36, par. 2, Articles 37, 38 and 42 of the Law.

Rule 17

Public access to documents in the regular filing

1) After having published the registration of a topography, SOIT shall make available to the public the documents in the regular filing of the application. To that purpose, a file shall be made comprising one copy of each document in the regular filing.

2) Where there are topographies for which the applicant declared that a certain part of the technical documentation comprised trade secrets, the file open to public inspection shall comprise only the documents containing no trade secrets.

At the same time, where, according to the applicant's declaration, the creators, mentioned as such in the application, do not wish to have their names made known, the file open to public inspection shall comprise that copy of the application where no creators' names are mentioned.

3) The files of the refused or withdrawn (abandoned) applications shall not be open to inspection by the public.

4) Upon the request of any party, SOIT may issue certified copies of the public documents comprised in the regular filing of the registered topographies or of the leaves of the National Register of Topographies. The application shall be accompanied by the receipt of payment of the legal fees for the issuance of the requested copies.
