

"ON THE LEGAL PROTECTION OF THE TOPOLOGIES OF INTEGRATED CIRCUITS"

No. 3526-1 of September 23, 1992 with changes and amendments*
introduced by the Federal Law No.82-FL on July, 2002

Article 1. Basic Concepts

1.The following basic concepts are used in this Law:

- topology of an integrated circuit (hereinafter topology) shall mean the three-dimensional layout of all the elements constituting an integrated circuit and their interconnections fixed on a physical medium;
- integrated circuit (hereinafter IC) shall mean a microelectronic product in its final or intermediate form intended to perform the functions of an electronic circuit of which the elements and interconnections constitute an integral part of the body and/or of the surface of a body of material acting as the basis for manufacturing the product;
- commercial exploitation of topology shall mean the reproduction, commercial distribution of the topology in every possible way, IC with this topology or incorporating such topology for the purpose of deriving profit. Unless otherwise stated, exploitation used in this Law shall mean commercial exploitation.
- protected topology shall meet the conditions of legal protection provided in this Law.

2.For the purposes of this Law, a right holder shall mean the creator, his heir or any other natural or legal person enjoying an exclusive right to the protected topology under the law or a treaty.

Article 2. Relationships Governed by This Law

This Law shall govern the relationships deriving from the creation, legal protection and exploitation of topologies for the purposes, provided by this Law.

Article 3. Subject Matter and Conditions of Legal Protection

1.The legal protection afforded by this Law shall apply solely to topologies that are original.

2.A topology shall be original if it is the result of creative activity and is not known to the author and (or) specialists in topology as of the date of its creation. A topology shall be deemed original unless proved otherwise.

3.Topologies which consist of the elements that are commonplace among creators and manufacturers of integrated circuits at the date of its creation shall enjoy legal protection only if those elements taken as a whole meet the conditions of originality.

4.The legal protection afforded by this Law shall not extend to any concept, process, system, technique or encoded information, which may be embodied in the topology.

Article 4. Authorship of Protected Topologies

1.A natural person whose creative activity has produced the protected topology shall be considered the creator of the protected topology.

2.Where a protected topology has been created jointly by several natural persons each of them shall be recognized as the creators of the protected topology.

3.Those natural persons who have not made a personal creative contribution to the creation of the protected topology and have only provided technical, organizational or material assistance to the creator or who have only lent their assistance in obtaining the rights relating to exploitation of the protected topology shall not be recognized as creators.

4. The right to authorship of a protected topology shall constitute an inalienable personal right and shall enjoy legal protection unlimited in time.

Article 5. Exclusive Rights

1. The creator or other right holder shall have the exclusive right to exploit at will the protected topology, in particular by manufacturing and distributing integrated circuits embodying the topology, and shall have the right to prohibit others from exploiting it without authorization, except in those cases referred to in Article 8 of this Law.

2. The conditions for exercising rights belonging to more than one creator of the protected topology or other right holders shall be laid down by agreement between such persons.

3. The following acts shall constitute an infringement of the exclusive right to protected topology if performed without the authorization of the creator or other right holder:

- reproduction of the whole or a part of the protected topology by incorporation in an IC or in some other manner, except where the part that is reproduced is not original;
- import into the territory of the Russian Federation, offer for sale, sale and any other form of commercial exploitation of the protected topology, IC with this topology or a product incorporating such IC.

Article 6. Transfer of Rights

1. The right to exploit the protected topology as well as an exclusive right to the protected topology may be transferred to other natural persons or legal entities by contract.

Contracts shall be in writing and shall contain the following essential clauses:

mode and scope of exploitation of the protected topology, amount of remuneration and conditions of payment, term of the contract.

2. Exclusive (economic) rights to the protected topology may be transferred by succession in accordance with the statutory provisions.

Article 7. Economic Rights in a Protected Topology

1. An exclusive right to the protected topology created by an employee (author) under a service relationship or in fulfillment of an explicit commission by the employer shall belong to the employer unless otherwise stipulated in the contract between the employer and the creator (author).

If an exclusive right to the protected topology belongs to the employer, the creator (author) shall have the right to remuneration and the conditions of payment shall be laid down in the contract concluded between the creator (author) and the employer.

2. An exclusive right to the protected topology, created under a service relationship by a State contract for Federal needs or the needs of a subject of the Russian Federation, shall belong to the performer (contractor) unless otherwise is not stipulated in the State contract, namely that this right shall belong to the Russian Federation or a subject of the Russian Federation, represented by the State contractor.

3. In the case where an exclusive right to the protected topology, created under a service relationship by a State contract for Federal needs or the needs of a subject of the Russian Federation, does not belong to the Russian Federation or a subject of the Russian Federation, the holder of an exclusive right to the protected topology shall be obliged, at the request of a State contractor, conclude a contract on a free grant of the right to exploitation of such topology for manufacturing goods or carrying out contractual work for the Federal needs or needs of a subject of the Russian Federation.

4. Remuneration to an employee (author) who has created the protected topology and who is not the right holder of an exclusive right to it, shall be paid by a person who has received this right under paragraph 2 of this Article. The procedure and amount of payment shall be governed by contract between the author and the holder of the exclusive right to the protected topology.

Article 8. Acts Not Infringing the Exclusive Right to Protected Topology

1. The following shall not constitute acts infringing the exclusive right to exploit the protected topology:

- the acts under paragraph 3 of Article 5 of this Law in respect of IC which incorporates illegally reproduced protected topology or any product incorporating such IC if the person exploiting them was not aware or cannot be expected to be aware that it incorporates an illegally reproduced protected topology. Once such person has been informed of the illegal reproduction of the protected topology, he shall pay to the right holder an appropriate compensation for the exploitation of the protected topology, proportionate to the amount that could have been paid in comparable conditions for a similar topology;
- the use of protected topology for private and non-lucrative purposes or for the purposes of evaluation, analysis, research or teaching;
- the distribution of IC incorporating a protected topography that have lawfully been introduced commercially.

2. The acts referred to in Article 5.3 of this Law shall not constitute an infringement of the exclusive right to a protected topography if they are performed with regard to an identical original topography that has been independently created by another person.

Article 9. Registration and Indication

1. The creator of a topology or any other right holder may register, directly or through a representative, the topology with the Federal executive authority on intellectual property by filing an application for official registration of the IC topology (hereinafter referred to as an application for registration).

The topologies that incorporate State or any other secret protected by the Law shall not be officially registered. An applicant shall be liable for the disclosure of information on topologies, which incorporate State secret in compliance with the legislation of the Russian Federation.

2. The application for registration shall be filed two years at the latest after the date of first exploitation of the topology if there has been exploitation.

3. The application for registration shall concern only one topology and shall comprise:

- a request for official registration of the IC topology, in which the name of the right holder and the creator, unless the latter didn't object against been mentioned as such, their places of business or of residence, together with the date of first exploitation of the topology if the exploitation has taken place;
- documents enabling the topology to be identified, including an abstract;
- a document proving payment of the appropriate registration fee or the existence of conditions justifying exemption from that fee or a reduction in the fee;

Other conditions to be met by the documents comprising an application for registration shall be determined by the Federal executive authority on intellectual property.

4. After receiving an application for registration, the Federal executive authority on intellectual property shall check that the required documents are all present and that they satisfy the conditions set out in paragraph 3 of this Article. If the outcome of such verification is positive, the Federal executive authority on intellectual property shall enter the topology in the Register of Topologies of Integrated Circuits, shall issue to the applicant an official certificate of registration of the topology and shall publish the particulars of the registered topology in the Official Gazette of the Federal executive authority on intellectual property.

At the request of the Federal executive authority on intellectual property, or on his own initiative, the applicant shall have the right before publication of the particulars in the Official Gazette, to supplement, specify or correct elements of the application.

The procedure for official registration and the presentation of the official registration certificates and the list of particulars to be shown thereon shall be determined by the Federal executive authority on intellectual property and shall be published in its Official Gazette.

5. Any contract that assigns an exclusive right to the registered topology shall be registered with the Federal executive authority on intellectual property.

Contracts on the transfer of the right to exploit the protected topology may be registered with the Federal executive authority on intellectual property if the parties so agree.

6. The particulars entered in the Register of Topologies of Integrated Circuits shall be deemed correct unless proved otherwise.

The applicant shall be liable for the correctness of the particulars stated.

7. Performance of the acts relating to the official registration of topologies and of contracts and the publication of particulars shall be subject to payment of registration fees.

The amounts and time limits for paying registration fees, together with the conditions for exemption from such fees or a reduction in their amount shall be determined by the Government of the Russian Federation.

8. In order to advertise his rights, the creator of a topology or his successor in title shall have the faculty of affixing to a protected topology or to products incorporating that topology an indication in the form of a capital T ("T", [T], T , T* or T), the date on which the exclusive right to exploit the protected topology took effect and information to identify the right holder.

Article 10. Term of the Exclusive Right to Exploit Topology

1. The term of an exclusive right to exploit a protected topology shall be 10 years.

2. The exclusive right to exploit a topology shall begin on the earliest of the following dates:

- the date of the first exploitation of the topology, that is to say the earliest documented date on which the topology or an integrated circuit incorporating the topology was first commercially exploited in the Russian Federation or in any foreign country of that topology, or IC with that topology or a product, incorporating such IC;
- the date of registration of topology with the Federal executive authority on intellectual property.

3. Where an identical original topology has been independently created by another person, the overall term of the exclusive right to exploit the topology may not be more than 10 years.

Article 11. Assertion of Rights in a Protected Topology

1. The creator of a protected topology or any other right holder may request:

- recognition of his rights;
- restoration of the situation existing prior to infringement of his rights and cessation of the acts that infringe his rights or that are liable to infringe them;
- payment of damages by the infringer in conformity with the Civil Law;
- the adoption, in conjunction with the defense of his rights, of other measures afforded by statute.

2.The creator or any other right holder may institute legal proceedings or apply to arbitration, in accordance with the established procedure, in order to assert his rights.

3.The copies of integrated circuits that have been unlawfully manufactured and/or of the products incorporating the integrated circuits thus manufactured, and also the materials and equipment used in their manufacture may be, in line with the procedure, provided by the legislation of the Russian Federation, be confiscated, destroyed or transferred to the holder of the topology, reproduced in these ICs to compensate for the damage at his request.

Article 12. Protection of Topology Rights Abroad

A creator or other right holder may seek legal protection of a topology abroad.

The costs involved in obtaining legal protection for a topology abroad shall be borne by the person requesting such protection or, in agreement with that person, by any other natural or legal person.

Article 13. Rights of Foreign Natural and Legal Persons

Under the international treaties to which the Russian Federation is a party, or applying the principle of reciprocity, foreign natural and legal persons shall enjoy the rights afforded by this Law in the same way as natural and legal persons of the Russian Federation.

Article 14. International Treaties

Where an international treaty to which the Russian Federation is a party stipulates rules that differ from those set out in this Law, the provisions of such international treaty shall be applied.
