

ACT ON THE PROTECTION OF TOPOGRAPHIES FOR SEMICONDUCTOR PRODUCTS

(Act 1992:1685, of December 17, 1992, as last amended by Act 1994:238, of April 14, 1994).

The Subject Matter of Protection

Article 1. In order for a right in a topography to exist under this Act, the topography must be the result of its creator's own intellectual effort and the topography must not consist of elements that are commonplace in the semiconductor industry. Where the topography consists of elements that are commonplace in the semiconductor industry, it is protected only if the combination of such elements meets the above-mentioned conditions.

The Scope of the Protection

Article 2. The right in a topography for a semiconductor product includes an exclusive right to

1. make copies of the topography
2. import, for commercial purposes, copies of the topography, and
3. make the topography available to the public by offering copies of the topography for sale, rental, lending or other distribution to the public.

The notion of a "copy of a topography" includes also a semiconductor product which has been manufactured by using the topography.

Owner of the Right to Protection

Article 3. The owner of the right in a topography is the physical person who created the topography, provided that he is a national of, or has his habitual residence in, a State member of the European Economic Area and that the provisions of the second paragraph do not apply.

The right in a topography which has been created by an employee in the course of his employment belongs to the employer, unless there is an agreement to the contrary and provided that the employer is a physical person who is a national of, or has his habitual residence in, a State member of the Economic Area or a legal person who conducts business activities in such a State.

Where a right in a topography does not exist under the provisions of the first and second paragraphs, such a right shall apply in favour of physical or legal persons who, or which, meets the conditions relating to the attachment referred to in the second paragraph, provided that they have obtained an exclusive right to exploit the topography commercially throughout the Economic Area and commercially exploit the topography in a State member of that Area.

The right in a topography shall apply also in favour of any person who has acquired the right from the persons referred to in the first to third paragraphs.

Term of Protection

Article 4. The right in a topography comes into existence when it has been created and ceases at the expiry of the tenth year from the year in which the topography was first commercially exploited anywhere in the world.

The right ceases fifteen years from the end of the year in which the topography was created, if it has not, at that time, yet been commercially exploited.

Limitations on the Protection

Article 5. Notwithstanding the provisions of [Article 2](#), copies may be made of the topography exclusively for teaching about, or analysis of, the topography. Single copies may also be made for private purposes.

Copies which have been made under the provisions of the first paragraph may not be used for any other purposes.

Article 6. The right in a topography does not extend to copies of the topography which have been distributed to the public within the European Economic Area by the right-owner or with his consent.

Article 7. Where a copy of a topography forms part of a public document, that copy shall, notwithstanding the provisions of [Article 2](#), be made available as prescribed in Chapter 2 of the Freedom of the Press Act.

Transfer of the Right

Article 8. The transfer of a copy of a topography does not include the transfer of the right in the topography.

If a person who holds the right in a topography has granted a right to another person to exploit the topography commercially (license), this person may further transfer his right only if an agreement has been concluded to this effect. If the license forms part of a business activity, it may, however, be transferred together with the business of part of it.

Penal Liability, etc.

Article 9. Anyone who wilfully or with gross negligence commits an act which violates the right provided for in [Article 2](#) shall be punished by fines or imprisonment for not more than two years. A person who has violated an injunction issued under penalty of a fine under [Article 9 a](#), may not be adjudicated to criminal liability for the infringement covered by the injunction.

Attempts to commit offences mentioned in the first paragraph as well as the planning of such offences shall be punishable according to the provisions of Chapter 23 of the Criminal Code.

A public prosecutor may bring a criminal action for an offence referred to in the first and second paragraphs only if there is a complaint from the injured party or such an action is called for in the public interest.

Article 9 a. At the request of the owner of the topography or of a person who, on the basis of a license, has the right to exploit the topography, the Court may issue an injunction prohibiting, under penalty of a fine, a person who commits an act constituting an infringement of, or a violation referred to, in [Article 9](#) to continue that act.

In the plaintiff shows a probable cause that an act constituting an infringement or a violation as referred to in [Article 9](#) takes place and if it can reasonably be expected that the defendant, through the continuation of the act, diminishes the value that the right in the topography confers, the Court may issue an injunction for the time until the case has been finally adjudicated or otherwise is decided. No injunction may be issued before the defendant has been given an opportunity to respond, unless a delay would entail a risk for injury.

An injunction as mentioned in the second paragraph may be issued only if the plaintiff deposits a security with the Court for the damage which may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him from making a deposit. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has accepted it.

When the case is adjudicated, the Court shall decide whether a prohibition issued under the second paragraph shall continue to apply.

The provisions on appeal against decisions in Chapter 15 of the Code of Judicial Procedure shall apply as regards appeals against decisions under the second and third paragraphs and as regards the proceedings in higher Courts.

A request for the imposition of a fine may be made by the person who has requested the injunction. In connection with such an imposition, a request may be made for a new injunction to be issued under penalty of a fine.

As regards the contents of wireless broadcasts and broadcasts by wire, the provisions of the Radio Act (1966:755) apply.

Article 10. Anyone who, in violation of this Act, has acquired a copy of a topography and does not know, or has reasonable grounds to believe, that the topography is protected, has the right to continue to commercially exploit the copy of the topography also after he became aware of the fact that the topography is protected. A compensation for the exploitation shall be paid according to the provisions in [Article 11](#), first paragraph.

Article 11. Anyone who exploits a topography in violation of this Act shall pay a compensation for the exploitation to the person who holds the right in the topography if and to the extent that this is considered reasonable.

In the case of an exploitation carried out wilfully or with negligence, a compensation shall be paid also for the further injury caused through the violation. In the determination of the amount of the compensation also the interest of the owner that a violation not be committed and to other circumstances of other than purely economic importance shall be taken into account.

Article 12. Anyone who commits an act involving a violation of the right provided for in [Article 2](#) shall, if this is considered reasonable, surrender to the owner of the topography, for a compensation, the property involved in the violation.

Instead of issuing an order for surrender as prescribed in the first paragraph, the Court may, if this is reasonable, order that such property shall be destroyed or altered or that other measures shall be taken which are likely to prevent unauthorized use. Orders mentioned in this paragraph shall not be issued if surrender or measures likely to prevent unauthorized use are to be decided under Chapter 36 of the Criminal Code. An action under this paragraph may be brought by the holder of the right in the topography. Such an action may also be brought by a public prosecutor if this is called for in the public interest.

The provisions of the first and the second paragraphs shall not apply in respect of persons who have in good faith acquired the property or a right in it.

Article 13. Property as referred to in [Article 12](#) may be seized where there are reasonable grounds to believe that an offence under this Act has been committed. As regards such seizure, the provisions on seizure in criminal cases in general shall apply.

Article 14. If property other than such mentioned in [Article 12](#) has been used as a tool for such making of copies of the topography which is a violation under this Act, the property or its value may be ordered to be surrendered if this is necessary in order to prevent a criminal violation or there are otherwise special reasons for such an order. This shall also apply in relation to property which has been used for attempts to commit violations as mentioned in this Article or form part of the planning of such violations.

Applicability of the Act

Article 15. The Government may, on condition of reciprocity, or where this follows from such an agreement with a foreign State or an intergovernmental organization which has been approved by the Parliament, issue provisions on the applicability of the Act in relation to States other than those which are members of the European Economic Area.

1. This Act enters into force on the date decided by the Government, when also the Act (1986:1425) on the Protection of Topographies in Semiconductor Products ceases to apply.

2. The Act applies also to topographies which have come into being before the entry into force, except as regards measures which have been undertaken or rights which have been acquired before the entry into force. Where copies of a topography have been made before April 1, 1987, they may, however, notwithstanding the provisions of [Article 2](#), be further distributed.

Regulation (1993:1646) prescribed that the Act entered into force on January 1, 1994.