

**ACT
ON THE PROTECTION OF TOPOGRAPHIES OF INTEGRATED CIRCUITS**

Official Consolidated Version

(ZVTPPV-UPB2)

Article 1

Pursuant to Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products (OJ L 24, of 27. 1. 1987, p. 36) and Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the Enforcement of Intellectual Property Rights (OJ L 195, of 2. 6. 2004, p. 16), this Act shall regulate the granting of protection and the protection of integrated circuit topographies.

Article 2

"Integrated circuit" shall mean the final or intermediate form of any product intended to perform an electronic function, consisting of a body of material which includes one or more connected layers composed of integrated elements, of which at least one shall be an active element.

"Topography of an integrated circuit" (hereinafter: "topography") shall mean an invariably fixed series of related images for each layer of the integrated circuit, representing the disposition of semiconducting elements on layers, however fixed or encoded or otherwise expressed.

"Commercial exploitation" of a topography shall mean the manufacture, sale, rental, leasing or any other method of commercial distribution, directly relating to a topography or an integrated circuit produced on the basis of the respective topography.

Article 3

The right to protection of a topography shall apply in favour of its creator. Where a topography is the product of more than one creator, the right shall apply in favour of all such persons.

Where a topography is created in the course of the creator's employment or on the basis of an order, the right to protection shall apply in favour of the creator's employer or person placing the order, unless the terms of employment or of the order provide to the contrary.

Persons entitled to the right under the first and second paragraphs may be natural persons who are nationals of the Republic of Slovenia or companies and other legal persons with a registered office in the territory of the Republic of Slovenia. Persons entitled to the right under the first and second paragraphs may also be natural persons who are not nationals of the Republic of Slovenia and do not have their habitual residence in the territory of the Republic of Slovenia or foreign companies

and other foreign legal persons, as a result of international contracts and conventions or of the application of the principle of reciprocity.

Article 4

The Slovenian Intellectual Property Office (hereinafter: "Office") shall maintain a register of protected topographies and shall perform the administrative proceedings and other administrative matters relating to granting the right of protection of a topography.

Natural and legal persons may only be represented in proceedings before the Office by representatives entered in the register of patent agents, pursuant to the act regulating the granting and protection of industrial property rights.

There shall be no appeal against a decision taken by the Office in accordance with this Act; however, an administrative appeal proceeding shall be possible.

The register referred to in the first paragraph is a public document.

Article 5

A topography may be protected if it is original.

A topography shall be considered to be original if it is the result of its creator's own intellectual efforts and was not commonplace in the semiconductor industry at the time it was created.

Where a topography consists of elements that are commonplace in the relevant industry, only the combination of such elements shall be protected, provided that it fulfils the conditions relating to originality, as provided in the second paragraph.

Article 6

The holder of a protected topography shall be granted exclusive rights of commercial exploitation, including the right to authorise or prohibit any of the following acts:

- reproduction of the topography by any means or in any form;
- importation, sale or other form of distribution of the topography or integrated circuit incorporating the respective topography or products that include the integrated circuit incorporating the respective topography.

The exclusive rights referred to in the first paragraph shall not extend to any concept, process, system or technique embodied in the topography other than the topography itself.

Article 7

A topography shall be protected when it is entered in the register of topographies.

The exclusive rights shall commence application from the earlier of the following dates:

- date of filing of application pursuant to Article 9 of this Act;

– the date when the respective topography was first commercially exploited anywhere in the world.

The exclusive rights shall cease application 10 years after the earlier of the following dates:

- the end of the calendar year in which the period ten years from the date the topography was first commercially exploited anywhere in the world expires; or
- the end of the calendar year following the expiry of the ten year period from the date a correct application was filed.

The exclusive rights shall expire before the period defined in the third paragraph of this Article if the respective fees are not paid or if the holder of the protected topography renounces protection in writing.

Notwithstanding the third paragraph, if a topography has not been commercially exploited, the exclusive rights shall expire after 15 years from its fixation or encoding.

Within the term of protection, the right holder shall be entitled to mark the respective integrated circuit with a capital T.

Article 8

An application may not be filed after the lapse of two years from the date when the topography was first commercially exploited.

Article 9

The procedure for the registration of a right of protection shall commence with a request relating to entry in the register, which shall be accompanied by all prescribed items (hereinafter: application).

The application must contain the following items:

- name and signature of the applicant, name of the creator, nationality and habitual residence or registered office of the applicant;
- images relating to the respective topography, accompanied by a mention of their sequence;
- an abstract comprising the characteristics of the electronic function or functions of an integrated circuit, manufactured on the basis of the protected topography;
- if the topography has already been commercially exploited, a statement in writing of the date when the respective topography was first commercially exploited.

A separate application shall be filed for each topography.

The minister responsible for intellectual property shall issue regulations specifying in greater detail the contents of applications.

Article 10

Fees shall be paid in consideration of the registration and maintenance of protection of a topography.

The Government of the Republic of Slovenia shall lay down regulations determining the amount of the fees mentioned in the first paragraph.

Article 11

The Office shall mark each application with the date of submission and an application number, and shall issue the application with a receipt of application.

The Office shall examine whether the application fulfils the conditions relating to the entry in the register of topographies as specified in the first paragraph of Article 9.

The request shall be rejected if the application does not fulfil those conditions.

If the application fulfils the conditions only in part, the Office shall invite the applicant to amend the application within a time limit of two months. The Office may, for legitimate reasons and at the request of the applicant, extend this term for another three months. If the applicant fails to reply in due time, the application shall be deemed to be withdrawn.

If an application fulfils all the conditions, it shall be entered in the register of topographies and the applicant shall be issued a certificate relating to the entry in the register.

The entry in the respective register shall be published in the Official Bulletin of the Office.

Article 11a

At least the following data shall be entered in the register of topographies: registration number, application date and number, date of publication, date of entry in the register, data on the rights holder (surname, name and address or company name and registered office), data on the creator (surname, name, address, wherein a statement of town and country shall suffice), and the date the rights cease to apply.

Information on judicial disputes and final court judgments which the Office is notified of shall also be entered in the register of topographies.

The minister responsible for intellectual property shall define the content of the register and procedure for entering changes in the register in greater detail in an implementing regulation.

Article 12

The registration shall be invalidated if it is established that:

- a topography is not original; or
- the application has not been filed by a natural or legal person entitled to protection; or
- the application was filed after the time limit defined in the fifth paragraph of Article 7 or Article 8; or
- images relating to the topography do not enable its identification.

Any natural or legal person may institute an action before a competent court to declare the rights null and void on the grounds referred to in the preceding paragraph.

The final judgment shall be published in the Official Bulletin of the Office.

Article 13

A person whose rights have been infringed may, in addition to claiming damages, request that the person infringing his right be prohibited from continuing to infringe those rights.

Any person who infringes the rights pertaining to a protected topography shall be liable for any resultant damages in accordance with the general principles governing compensation for damage. The following cases shall not be considered an infringement of legally protected rights:

- reproduction of the protected topography for non-commercial purposes;
- reproduction of the protected topography for the purpose of analysing or evaluating its concept, processes, systems and techniques, embodied in the topography, or for research or educational purposes; or
- commercial exploitation of a new topography which has been created, however, on the basis of analyses and evaluation of the protected topography, but is considered to be original and the result of its creator's own intellectual efforts and is not commonplace in the semiconductor industry.

The provision of the first paragraph of this Article shall also apply to the successors in title of the person referred to in the first paragraph of this Article.

Article 14

A person who commercially exploits an integrated circuit incorporating a protected topography and who does not know or has no reasonable grounds to believe that the topography of the product is protected, shall not be prevented from commercially exploiting that integrated circuit.

Compensation, the amount of which depends on the scope of commercial exploitation of the protected topography, may be claimed from the person referred to in the first paragraph by the holder of the protected topography. Compensation may be claimed as from the date when the person referred to in the first paragraph knew or had reasonable grounds to believe that the topography was protected.

The amount of compensation under the second paragraph shall be agreed upon between the holder of the protected topography and the person referred to in the first paragraph of this Article. If no agreement is reached, the competent court shall establish the amount of compensation.

The provisions of the first paragraph of this Article shall also apply to the successors in title of the person.

The right of commercial exploitation referred to in the first paragraph shall be limited to importation, sale or distribution of the products of integrated circuits or other products incorporating the respective topography and shall apply to a topography or

products that were on hand at the time the claim under the second paragraph was received.

Article 15

The rights provided for in the second indent of the first paragraph of Article 6 of this Act may not be exercised after the protected topography or integrated circuit has been put on the market by the respective right holder or with his consent.

Article 16

Pursuant to this Act, only topographies that have been created after the date this Act has entered into force may be protected.

Article 17

In procedures pursuant to this Act, the following provisions of the act regulating the granting and protection of industrial property rights shall apply *mutatis mutandis*: the sending of information on applications and granted or registered rights, confidentiality of and access to applications, administrative disputes, procedures for legal action, the transfer and licensing of rights, the entry of changes to the register, the procedure for entering changes to the register, capacity to sue, infringement actions, damage compensation, submission of evidence, temporary injunctions, protection of evidence, obligation to notify, representation before the Office, representative of foreign persons, and revocation and termination of authorisation.

The Act on the Protection of Topographies of Integrated Circuits – ZVTPPV (Official Gazette of the Republic of Slovenia, No 21/95) includes the following transitional and final provision:

Article 18

The regulations referred to in Articles 9 and 10 shall be published no later than six months following the date this Act enters into force.

Article 19

This Act shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia.

The Act amending the Act on the Protection of Topographies of Integrated Circuits – ZVTPPV-A (Official Gazette of the Republic of Slovenia, No 96/02) includes the following transitional and final provision:

Article 6

The minister responsible for intellectual property shall issue the implementing regulation referred to in Article 4 of this Act within three months of this Act entering into force.

Article 7

This Act shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia.

The Act amending the Act on the Protection of Topographies of Integrated Circuits – ZVTPPV-B (Official Gazette of the Republic of Slovenia, No 60/06) includes the following transitional and final provision:

Article 4

This Act shall enter into effect on the day after its publication in the Official Gazette of the Republic of Slovenia.