

LAW on the Protection of Topographies of Semiconductor Products

(No. 529 of December 3, 1991)

The Federal Assembly of the Czech and Slovak Federal Republic has passed the following Law:

Subject of Protection

§ 1

- (1) Protection under this Law shall apply to topographies of semiconductor products (hereinafter referred to as “topographies”) that are the result of creator’s intellectual effort and are not commonplace in the semiconductor industry. Protection under this Law shall also apply to parts of topography that are independently usable and to representations used in manufacture of topographies.
- (2) A topography consisting of commonplace elements shall be protected insofar as the combination of these elements meets the requirements of [section \(1\)](#).
- (3) Protection under [section \(1\)](#) shall not apply to technology used for producing the topography or for manufacturing the semiconductor product or to any information stored in the product.

§ 2

- (1) For the purposes of this Law a topography shall mean a series of fixed or coded in any manner, interrelated representations that represent a three-dimensional permanent arrangement of layers the product is made of, where each representation refers to a model of one layer of a semiconductor product or of a part thereof, or of a surface of a semiconductor products of its part in individual manufacturing stages.
- (2) For the purposes of this Law a semiconductor product shall mean a final or intermediate form of a microelectronic product intended to fulfil an electroic function, consisting of a basic body containing a layer of a semiconductive material provided with at least one prearranged layer of conductive, insulating, or semiconductive material.

Right to Protection

§ 3

- (1) The right to protection of the topography shall apply in favour of the creator or in favour of the respective successor in title.
- (2) If the topography has been created in the course of employment or a similar relationship, the right to protection shall apply in favour of the employer or of the person by whom the topography has been commissioned, unless provided otherwise by contract.

§ 4

The right to protection of the topography is transferrable.

§ 5

The right to protection of the topography shall expire after 15 years from the date of its creation, if the topography has not been commercially exploited other than confidentially, or has not been filed with the Federal Office for Inventions (hereinafter “the Office”).

§ 6

- (1) Any Czechoslovak national and any person with habitual residence or headquarters on the territory of the Czech and Slovak Federal Republic may obtain the right to topography protection.
- (2) Persons who do not have their habitual residence or headquarters on the territory of the Czech and Slovak Federal Republic may obtain the right of topography protection only under condition of reciprocity.

§ 7

- (1) Any person who wishes to apply for the right of topography protection (hereinafter “the applicant”) shall file an application in writing in respect of topography for which protection is sought (hereinafter “the application”) with the Office. A separate application shall be filed for each topography.
- (2) The application shall contain:
 - (a) a request for registration in the Register of Topographies (hereinafter “the Register”), containing the title of the topography;
 - (b) material identifying the topography, or the semiconductor product proper which contains the topography;
 - (c) the date of the day of first commercial exploitation, other than confidential, of the topography, provided such day is earlier than the date on which the application has been filed;
 - (d) documents establishing the entitlement to topography protection under [§ 4](#) and data giving evidence of topography protection under [§ 6](#).
- (3) The applicant is entitled to mark some of the required material identifying the topography or its parts as trade or industrial secret; in such case the file shall

contain a separate copy of these documents, wherein the corresponding parts marked as trade or business secret have been made illegible. The material may not be marked as trade or industrial secret in its entirety.

- (4) The Office shall have power to establish detailed requirements for the application.

§ 8 Registration

- (1) If the application complies with the requirements of [§ 7](#), the Office shall register the application into the Register. The Office shall issue, to the applicant whose topography has been registered into the Register (hereinafter “the topography owner”), a registration certificate and shall publish the registration of the topography in the Official Bulletin of the Federal Office for Inventions (hereinafter “the Bulletin”).
- (2) Where the application does not comply with the requirements of [§ 7](#), the Office shall invite the applicant to remedy the defects within a prescribed time limit. If the applicant does not remedy the defect within the prescribed time limit, the Office shall terminate the procedure. The applicant shall be notified of this by the Office already when the time limit for remedying the defect has been set. If the defect concerns the requirements of [§ 7, section \(2\) sub a\) through c\)](#), the date of receipt of the rectified application shall be deemed the date of the application. If the application has been filed contrary to the provisions of [§ 6](#) and [§ 9, section \(1\) sub a\)](#), the Office shall refuse the registration.
- (3) When the topography has been registered into the Register, the Office shall make the material stated in [§ 7 section \(2\)](#) available to third parties for direct inspection. Copying or reproducing these materials or their parts by third person is not permitted.

§ 9 Commencement and Duration of Protection

- (1) Topography protection shall commence:
 - (a) on the date of the first commercial exploitation, other than confidential, of the topography, if the later has been duly filed with the Office within two years of such exploitation, or
 - (b) on the date of filing of regular application with the Office pursuant to the provisions of [§ 7](#), provided the topography has not been previously commercially exploited ([§ 11](#)), or if it has been exploited only confidentially.
- (2) Duration of protection of a topography shall expire after ten years from the end of the calendar year of its creation.
- (3) Failure of the time limit stated in [section \(1\) sub a\)](#) may not be excused.

§ 10 Effect of Protection

- (1) Without the consent (licence) of the topography owner any person shall be prohibited:
 - a) from reproducing the topography or its independently usable parts, and from making representations of the topography for the purpose of manufacturing,
 - b) from producing the semiconductor product which contains the protected topography,
 - c) from exploiting commercially the topography or the semiconductor product containing the protected topography or its independently usable part, or the representation of the topography which serves for its manufacture.
- (2) The effects of protection can only be asserted to third parties until after the topography has been registered into the Register.

§ 11

- (1) The effect of topography protection shall not extend to:
 - a) activities carried out for non-commercial purposes,
 - b) reproduction of the topography for the purposes of analysis, research, development or teaching,
 - c) commercial exploitation of a topography which has been created as a result of analysis, research or development under [b\)](#) above, if the new topography satisfies the requirements under [§ 1, section \(1\)](#),
 - d) subsequent commercial exploitation of the topography or of a semiconductor product containing the protected topography, provided the topography or the product have been distributed by the topography owner or with his explicit consent.
- (2) The effect of protection shall not extend to a person who acquires bona fide a semiconductor product containing the protected topography and distributed without the consent of the topography owner. From the date that person acquires the knowledge that the product contains the protected topography, the owner of topography shall be entitled to claim reasonable compensation for continued commercial exploitation of the product; the extent of that exploitation is decisive for determining the level of the compensation.

§ 12 Compulsory Licence

- (1) Where no licence agreement is reached concerning a protected topography, the Office may grant a compulsory licence, provided an important public interest is in jeopardy.
- (2) The grant of a compulsory licence shall not affect the right of the topography owner to obtain compensation in respect of the value of the licence.

§ 13 Cancellation of Topography Registration

- (1) The Office shall cancel the topography from the Register following a request by any person:
 - a) if the registered topography does not qualify for protection under the provisions of [§ 1](#),
 - b) if the application has not been filed within the time limit stated in [§ 9 section \(1\) sub a](#)), or the right to protection has expired under [§ 5](#),
 - c) if the applicant or the topography owner is not entitled to protection under [§ 6](#),
 - d) if the material required according to the provisions of [§ 7 section \(2\) sub\)](#) is at variance with the semiconductor product attached to the application.
- 2) Cancellation of a topography from the Register has the same effect as if the topography had never been registered.

§ 14

- (1) A request for cancellation of the topography from the Register shall be filed in writing with the Office in duplicate.
- (2) The request for cancellation of a topography shall contain material evidence and shall state the grounds in which it is based.
- (3) The Office shall invite the topography owner to file observations concerning the request for cancellation of the topography within a time limit prescribed by the Office. The topography owner shall file observations in writing and in duplicate.
- (4) If the topography owner does not file observations within the prescribed time limit, the Office shall cancel the topography from the Register.
- (5) If the topography owner files observations concerning the request for cancellation of the topography within the prescribed time limit, the Office shall dispatch his observations to the person who requested the cancellation and shall establish date for oral proceedings.
- (6) Non-attendance of participants in the oral proceedings concerning the requested cancellation of the topography from the Register shall not prevent the Office from reaching a decision in the matter.
- (7) Should the Office incur some cost in connection with the proceedings concerning the request for cancellation of the topography, the Office shall be entitled to a reimbursement of this cost by the losing participant.
- (8) The office shall grant the winning participant the right to reimbursement of any cost incurred in connection with the assertion of defence or rights,

provided the winning participant files a claim to this effect prior to the moment the meritorial decision has been reached in the matter.

§ 15 Deprivation of the Protection and Transfer

- (1) Upon request the Office shall deprive the protection extended to a topography if the Office established on the basis of a Court ruling that the topography owner has not been entitled to the right of protection under [§ 3](#).
- (2) The request under [section \(1\)](#) above may be filed only by a person who, according to the Court ruling, is entitled to protection of the topography, or his successor in title.
- (3) Upon request, filed within one month after the Court ruling has become legally valid by the person who is entitled to protection of the topography and who may assert the right to protection under [§ 6](#), the Office shall register that person as the topography owner. A request for a transfer of topography ownership shall be sustained by a Court ruling.
- (4) If no request for a change of the topography ownership under [section \(3\)](#) above is filed, the Office shall cancel the topography from the Register ex officio.

§ 16 The Register and Data on Topographies Published in the Bulletin

- (1) The Office shall keep the Register of Topographies and enter into the Register decisive data on application and on registered topographies.
- (2) The following items shall be registered into the Register for each topography:
 - a) number of registration (certificate);
 - b) date of registration;
 - c) date of publication of registration of the topography in the Bulletin;
 - d) title of the topography;
 - e) the filing date of the application, the identification reference or the first commercial-exploitation of the topography, whichever is the earlier;
 - f) the applicant (name or company), residence (headquarters) and representative where appropriate;
 - g) the topography owner (name or company), headquarters (residence) and representative where appropriate;
 - h) assignment of topography;
 - i) licence;
 - j) cancellation of topography;
 - k) deprivation of the protection or transfer of ownership;
 - l) expiration of protection.

- (3) The Office shall publish in the Bulletin all matters relevant to the registered topographies and additional data decisive for the protection of the topographies, as well as official statements and decisions of fundamental nature.

§ 17 Archivation of Documents

- (1) The Office shall keep the documents that enable identification of topographies under [§ 7 section \(2\) sub b](#) for 6 years after expiration of the protection.
- (2) If a filed application does not result in a registration of the topography into the Register, the Office shall keep the documents stated in [§ 7 section \(2\) sub b](#) for 1 year after the date on which the final decision on the application has been made.
- (3) After the time limit stated in [sections \(1\)](#) and [\(2\)](#) above have elapsed, the Office shall invite the person registered as the topography owner to take over the documents; if that person does not comply, the Office shall destroy the documents.

§ 18 Common and Final Provisions

- (1) The general statutory rules on administrative procedure shall apply to procedure before the Office, subject to the exceptions laid down by this Law and excluding the provisions on suspension of procedure, declarations of honor, time limits for decisions and measures in the event of failure to act.¹
- (2) The provisions of the Patent Law² concerning the rights of co-owner (s) of a topography, registration of licence agreements on exploitation of a topography, transfer of topographies, representation of persons in negotiations with and before the Office, termination of proceedings, registration of topographies kept secret according to special regulations, legal remedies and rights infringement shall apply mutatis mutandis.
- (3) The Office shall collect special fees for separate operations.³

§ 19

¹ §§ 29, 39, 49, and 50, Law on Administration Procedure No. 71/1967 Coll.

² Law on Inventions, Industrial Designs and Rationalization Proposals, No. 527/1990 Coll., §§ 15 to 16, 64, 68, 70 to 71 and 75.

³ Law on Administrative Fees (No. 105/1951 of the Collection) in the wording of the Decree of the Presidium of the National Assembly (No. 138/1960 of the Collection). Decree of the Federal Ministry of Finance, the Ministry of Finance, Prices and Wages of the Czech Republic and of the Ministry of Finance, Prices and Wages of the Slovak Republic (No. 570/1990 of the Collection).

Protection under this Law applies only to topographies created after entry into force of this Law.

§ 20

This Law shall enter into force on January 1, 1992.