

Executive Order Concerning Applications for the Protection of the Topographies of Semiconductor Products

(Danish Patent Office Executive Order No. 668 of September 28, 1990*)

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Pursuant to Order No. 778 of 9th December 1987 on the Protection of the Form of Semiconductor Products (topography), and by authorisation pursuant to section 1 of Order No. 105 of 3rd March 1988 by the Ministry of Industry, the following shall hereby be laid down:

Filing and Recording of the Application, etc.

1. Applications for the registration of a topography of a semiconductor product shall be filed with the Danish Patent Office.
- 2.-1. The application shall comprise a completed request for registration with annexes. The request form shall be worded by the Danish Patent Office.

2. The request shall be signed by the applicant or his agent, and shall contain:

(1) The applicant's name and address, and,

(a) for natural persons having their habitual residence in a Member State of the EEC, their nationality, and

(b) for legal persons, a Member State of the EEC or another State as stipulated pursuant to Section 4.2 of the Act in which they have a commercial establishment;

(2) a statement of whether a natural person stated as applicant has created the topography;

(3) if the creator is not stated as applicant, a statement to the effect that

(a) the applicant has acquired the rights to the topography in the course of the creator's employment or by commission from the applicant, or

(b) that the applicant has acquired the exclusive rights to exploit the topography commercially throughout the Community from the holder of the rights, and that the first commercial exploitation has taken place or will take place in a Member State, or

(c) that the applicant has acquired the rights to the topography from a neutral person or from a legal person, who as an applicant could have made a statement as mentioned in subparagraph (2) or (3)(a) or (b);

(4) if the topography has been exploited commercially prior to the date of filing,

(a) information of the date of the first commercial exploitation, and

(b) information corresponding to subparagraph (1) (name and address), but applying to the date of the first commercial exploitation, if the information has been changed since that date;

(5) if the applicant is represented by an agent, his name and address;

(6) a short title of the topography;

(7) a statement that the topography is the result of the creator's own intellectual effort and is not commonplace in the semiconductor industry;

(8) a list of the annexes filed together with the request for identifying the topography.

3. The following shall be annexed:

(1) material identifying or exemplifying the topography, and

(2) a power of attorney for the applicant's agent, if any.

4. The application shall be accompanied by the prescribed fee of 1,500 krone.

3. The application and its annexes shall be drawn up in Danish. However, the material for identifying or exemplifying the topography may contain technical terms in English.

4. In the same application the registration of the topography of only one semiconductor product must be applied for.

5. The application shall pertain to the topography as it exist on the date of filing of the application or on the date of its first commercial application, if that date precedes the date of filing.

6.-1. The material for identifying or exemplifying the topography shall include drawings or photographs of:

(1) layouts for the manufacture of the semiconductor product,

(2) masks or parts of masks for the manufacture of the semiconductor products; or

(3) the layers of the semiconductor product.

2. In addition to the material mentioned in paragraph 1 for the identification or exemplification of the topography, data carriers may be deposited in which layers of the topography are registered in

coded form, prints from such data carriers, supplementary description, or specimens of the semiconductor product.

3. If the topography does not represent the whole area of the intended, final semiconductor product, this shall be stated, and it shall be evident which parts of the area are represented by the topography.

7. Material for identifying or exemplifying the topography shall be filed in duplicate. Drawings and other written material shall be in A4-format (21 cm x 29.7 cm).

8.-1. Material for identifying or exemplifying the topography shall be kept unavailable to the public where it is declared to be a trade secret. No more than half the number of layers may be declared a trade secret.

2. A statement as mentioned in paragraph 1 may comprise a part of one layer.

9. If a document or other filed material contains trade secrets which are unnecessary for identifying or exemplifying the topography or for fixing the date of the first commercial exploitation, the Danish Patent Office may on request decide that the document or the material shall wholly or partially be unavailable to the public.

10.-1. If a declaration or a request is made in accordance with Section 8 or 9, it shall be evident which annexes are comprised therein.

2. The annexes filed comprised by the declaration or the request shall be either:

(a) filed separately from the other annexes; or

(b) filed in two sets, the parts comprised by the declaration or the request having been made unidentifiable.

11.-1. The Danish Patent Office shall provide applications received with an indication of the date when the application was filed and an application number.

2. The date of filing of an application shall be considered to be the date when the application with the information mentioned in Section 2.2(1) to (4), (6) and (7) and the material mentioned in Section 6.1 have been filed with the Danish Patent Office. The Danish Patent Office shall inform the applicant of the fixed date of filing.

12.-1. The Danish Patent Office keeps a journal of the applications filed. The journal shall be available to the public.

2. In the journal each application shall be provided with an indication of:

(1) the date of filing and the number of the application;

(2) the name and address of the applicant;

(3) the name and address of an agent, if any;

(4) the title of the topography;

(5) the letters and annexes received in the file, and the fees paid;

(6) transactions made in the file.

The Processing of the Application

13. The Danish Patent Office shall, when processing an application, examine if:

(1) the application deals with a topography for a semiconductor product;

(2) the applicant fulfils, in accordance with the information submitted, the conditions for acquiring the exclusive rights mentioned in Sections 2.2, 4 and 5 or the Act,

(3) the request for registration has been signed;

(4) the annexes are as prescribed;

(5) a request has been made in accordance with Section 9;

(6) the prescribed fee has been paid.

14.-1. If the applicant has not observed the provisions regarding the application, or if the Danish Patent Office should find that for other reasons the application cannot be complied with, the applicant shall be notified accordingly, with an invitation to file his observations or to correct the application within two months.

2. If at the end of that period the applicant fails to file his observations or to correct the application, it is annulled. The notification mentioned in paragraph 1 shall contain information to that effect.

The Danish Patent Office shall notify the applicant that the application is annulled.

15. If the Danish Patent Office finds no objection to acceptance of the application, the topography is registered and provided with a registration number. A notice thereof shall be published in the *Dansk Patenttidende* (Official Gazette).

16. When a notice in accordance with Section 15 has been published, the files of the application shall be available to the public, subject, however, to Section 8 and 9. Copies of the material mentioned in Section 6 must not be made or handed over.

17. If a request as mentioned in Section 11.1 of the Act has been made, the application cannot be annulled, refused or accepted until a final decision has been made on the request.

18. A fee of DKK 1,000 krone is payable for processing a request for a transfer as mentioned in Section 11 of the Act.

The Register of Topographies

19.-1. A Register shall be kept of the registered topographies.

2. The Register shall contain:

- (1) the number of the application and the registration number of the topography;
- (2) the name and address of the holder of the registration and any agent;
- (3) the title of the topography;
- (4) an indication of the date when:
 - (a) the application was filed,
 - (b) the exclusive rights came into existence, and
 - (c) the registration was published.

3. The information mentioned in paragraph 2 shall be available to the public.

20.-1. An entry the Register to the effect that the rights to a registered topography have been transferred to another person, or that a license has been granted, shall comprise the name and address of the holder of the rights in question and the date when the rights were transferred or granted. If requested, if shall, in the case of licenses, be recorded whether the holder of the registration is entitled to grant further licenses.

- 2. Changes in the name and address of the holder of the registration or of conditions relating to the power of attorney shall be recorded in the Register if a request is made therefor.
- 3. A fee of DDK 0.00 shall be paid for each entry as mentioned in subsections 1 and 2 of this Order.

21. This Order shall enter into force on 10th October 1990. Simultaneously, Order No. 264 of 11th April shall be repealed.

* *Official Danish title:* Bekendtgørelse angående ansøgninger om beskyttelse af halvlederprodukters udformning (topografi).

Entry into force: October 10, 1990.

Source: English translation communicated by the Danish authorities.

Note: For the Protection of the Topographies of Semiconductor Products Act, see *Industrial Property Laws and Treaties*, DENMARK-Text 1-001.

** Added by WIPO.