

## **LAW ON TOPOGRAPHIES OF INTEGRATED CIRCUITS**

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### **Chapter I - GENERAL PROVISIONS**

#### **Subject**

Art. 1 This Law governs the conditions and procedures for the registration of topographies of integrated circuits, hereinafter referred to as "topographies", the rights deriving from registration and the protection of those rights.

#### **Scope of Application**

Art. 2 (1) This Law shall apply to Bulgarian natural and legal persons and to foreign natural and legal persons of States party to the international treaties to which the Republic of Bulgaria is party.

(2) This Law shall apply to foreign natural and legal persons of other States subject to reciprocity to be determined by the Patent Office.

#### **Subject of Protection**

Art. 3 (1) Protection shall be afforded to an original topography that is the result of its creators' own intellectual efforts and is not commonplace among the creators of topographies and manufacturers of integrated circuits at the time of its creation.

(2) Where a topography consists of a combination of known elements and their interconnections, it shall be protected only if it fulfills the conditions of paragraph 1 above.

(3) The legal protection of a topography under this Law shall not extend to the techniques used in the manufacture of the integrated circuit in which the topography is embodied or the information stored on it.

#### **Representation**

Art. 4 (1) Any person entitled under this Law to act before the Patent Office may do so either in person or through a local industrial property representative.

(2) Persons referred to in paragraph 1 above who do not reside or do not have their registered offices in the Republic of Bulgaria shall be required to act before the Patent Office through a local industrial property representative.

#### **Fees**

Art. 5 The Patent Office shall levy fees for filing, registration, publication of registrations, recording of assignments and other changes in legal status and their publication, recording of license contracts and publication of the recording, recording of termination of licenses and its publication, access by third parties to the file, changes in the name and address of the owner, extension of time limits, information and extracts from the State Register of Topographies, correction of technical errors made by the applicant, issue of duplicates at rates fixed in a schedule of fees approved by the Council of Ministers.

#### **Files**

Art. 6 (1) The Patent Office shall keep a file for each topography, that shall include all documentation relating to the registration and any subsequent recording.

(2) Prior to registration, a file shall be accessible only to the applicant, to his representative or

to a person explicitly authorized by the applicant.

(3) After registration, the Patent Office shall allow access to the file, but without the right to copy the documents therein, regulated by an order of its President.

(4) The Patent Office shall not make available to the public the material identifying the topography or those parts of it which have been qualified by its owner as a trade secret, except on a court order with respect to persons involved in litigation concerning the validity of the registration or infringement of the exclusive rights.

### **State Register of Topographies**

Art. 7 The State Register of Topographies shall contain data concerning all registered topographies and all subsequent changes to them.

### **Access to the State Register of Topographies**

Art. 8 The State Register of Topographies shall be available to the public. Any person may request information or an extract from the contents of the Register.

### **Publications in the Official Bulletin of the Patent Office**

Art. 9 The Patent Office shall publish all registered topographies and any subsequent changes relating thereto in its Official Bulletin.

## **Chapter II - LEGAL PROTECTION**

### **Acquisition of Rights in Topographies**

Art. 10 (1) The right in a topography shall be acquired by registration with the Patent Office as from the date referred to in Article 14 (1).

(2) The right in a topography shall be exclusive.

### **Right to File an Application**

Art. 11 (1) The right to file an application shall belong to the person who has created the topography. Where the right to apply belongs to more than one person, it shall be exercised by them jointly. The refusal of one or more such persons to participate in the process of filing shall not be an obstacle to the remaining persons. The refusal must be in writing.

(2) In the case of a service topography according to Article 12 (1), the right to file shall belong to the employer or to the person who has commissioned the creation of the topography.

(3) The right to file according to paragraph 2, shall pass to the creator of the topography if the employer or the person who has commissioned the creation of the topography does not file an application within a three-month period as from the written notification of the creation of the topography, unless agreed otherwise.

(4) The right to file may belong jointly to the employer or to the person who has commissioned the creation of the topography respectively, and to the creator of the topography if so agreed.

(5) The right to file shall also belong to the successors in title of the persons referred to in paragraphs 1 to 4 above.

(6) The applicant shall be deemed the person who has the right to file unless otherwise established by court proceedings.

## **Service Topography**

Art. 12 (1) A topography shall constitute a service topography if it has been created in the performance of duties under an employment contract or on commission, unless otherwise agreed between the parties in writing.

(2) The creator of a service topography shall have the right to additional remuneration.

(3) The additional remuneration may be fixed as a part of the income derived from the exploitation of the topography or as a lump sum or in any other way.

(4) Where the remuneration fixed as a lump sum is obviously not in proportion to the income derived from the exploitation of the topography, the creator of the service topography shall have the right to demand an increase in the remuneration. If the parties cannot come to an agreement, the dispute shall be settled by the court acting in equity.

## **Right to Registration**

Art. 13 The right to registration shall belong to the person who has the right to file in accordance with Article 11.

## **Duration of Protection**

Art. 14 (1) The protection of a topography shall be effective as from:

1. 1. the date of the first commercial exploitation of the topography by the applicant anywhere in the world provided that an application is duly filed with the Patent Office within two years of that date or
2. 2. the date of filing of an application with the Patent Office in accordance with Article 22 (2) provided that the topography has not yet been commercially exploited or has only been exploited confidentially.

(2) The protection shall terminate ten years after the end of the calendar year during which it has become effective in accordance with paragraph 1 above.

## **Contents of Exclusive Rights in Topographies**

Art. 15 (1) The right in a topography shall comprise the right of the owner to exploit the topography, to dispose of it and to prohibit third parties from exploiting it in the course of their commercial activities without his consent.

(2) Commercial exploitation means the reproduction, sale, exchange, rental or leasing, import or export, or any other manner of commercial distribution, or the offer of such distribution of the topography or of a product in which it is incorporated.

(3) The exclusive right shall be effective with respect to third parties acting in good faith as from the date of publication of the registration of the topography in the Official Bulletin of the Patent Office.

## **Joint Ownership of Rights in Topographies**

Art. 16 (1) The right in a topography may belong to two or more persons.

(2) Any joint owner may exploit the topography without the consent of the other joint owners and with no obligation to render them accounts, unless otherwise agreed between them in writing.

## **Restriction on Rights in Topographies**

Art. 17 The right of the owner shall not extend to:

3. the reproduction, in whole or in part, of the registered topography by means of its incorporation in an integrated circuit or in any other way, with the exception of those parts of it which are not original within the meaning of Article 3 above, where such reproduction has been done for private purposes or for the purpose of evaluation, analysis, research or teaching;
4. the commercial use of a topography created by a third party as a result of evaluation or analysis according to item 1 above, where the newly created topography is original within the meaning of Article 3;
5. the acts referred to in Article 15 (2) where performed or ordered by a person who did not know and had no reasonable grounds to know that the registered topography had been unlawfully reproduced in the integrated circuit exploited; when such person becomes aware of that fact, he may continue to exploit the integrated circuit within the framework of the available stock of the goods ordered in advance provided that, at the request of the owner of the right in the topography, he pay equitable remuneration corresponding to that which he would have paid in the case of a freely-negotiated license.

### **Exhaustion of Rights in Topographies**

Art. 18 The owner of the right in a topography may not prohibit the commercial exploitation of an integrated circuit or of a product incorporating such circuit in which the registered topography has been embodied and which has been put on the Bulgarian market by or with the consent of the owner of the right.

### **Transfer of Rights**

Art. 19 (1) All rights under this Law may be transferred unless otherwise provided herein.

(2) In the case of joint ownership of a topography, the right may be transferred with the written consent of all joint owners, unless otherwise agreed between them.

(3) The transfer shall be recorded in the State Register of Topographies at the request of one of the parties, accompanied by a document of transfer.

(4) The transfer shall be effective with respect to third parties as from the date of its publication in the Official Bulletin of the Patent Office.

### **License Contracts**

Art. 20 (1) The owner of the right in a topography may permit its exploitation by means of a license contract.

(2) Authorization for exploitation of a jointly owned topography shall require the mutual consent of all joint owners.

(3) A license contract may grant an exclusive or a non-exclusive license. Where not otherwise agreed, a license shall be considered non-exclusive.

(4) The licensor under an exclusive license contract shall not have the right to grant licenses for the same subject matter to other persons. He shall have the right to exploit the licensed topography himself only if explicitly agreed.

(5) The license contract shall be recorded in the State Register of Topographies at the request of the licensee, accompanied by an extract from the license contract. The licensee shall be issued a certificate.

(6) The license contract shall have effect with respect to third parties as from the date it is recorded in the State Register of Topographies.

## **Termination of Legal Protection of Topographies**

Art. 21 (1) The legal protection of a topography shall be terminated:

6. on expiration of the term of protection in accordance with Article 14 (2);
7. on renunciation by the owner of the right;
8. on termination of the owner's existence, where is no successor in title.

(2) Termination of legal protection under paragraph 1, item 3 above, shall be effected on the request of an interested party.

## **Surrender of Rights**

Art. 22 (1) The owner of the right in a topography may surrender his right. Surrender must be declared before the Patent Office in writing.

(2) Surrender of the right declared by one or some of the joint owners shall not cause termination of the legal protection with respect to the remaining joint owners.

(3) Surrender shall have effect as from the date it is recorded in the State Register of Topographies.

(4) In the case of a recorded license contract, surrender shall be recorded only if the owner furnishes evidence that he has informed the licensee of his intention to surrender. In such case, the recording shall be made on expiry of a two-month period from the submission of the evidence.

## **Invalidation of Registrations**

Art. 23 (1) A registration shall be invalidated at the request of an interested party where:

9. the topography does not meet the requirements of Article 3;
10. the application for registration has not been filed within the time limit prescribe in Article 14 (1);
11. the material required in accordance with Article 25 (2), item 3, does not correspond to the topography of the integrated circuit presented as a sample under Article 25 (2), item 4.

(2) The registration of the topography shall be invalidated where it has been established in court proceedings that the recorded owner is not one of the persons listed in Article 11, and no request for recording the true owner has been filed within one month after the court judgment has become effective.

## **Legal Effects of Invalidation**

Art. 24 (1) Invalidation of the registration of a topography shall have effect as from the respective date in accordance with Article 14.

(2) Invalidation of the registration shall not affect:

12. judgments on claims for infringement which have become effective, to the extent to which they have been enforced before the invalidation;
13. license contracts, to the extent to which they have been performed, unless agreed otherwise.

## **Chapter III - REGISTRATION PROCEDURE**

### **Filing of Applications**

Art. 25 (1) An application for registration of a topography shall be filed with the Patent Office.

(2) An application shall be considered to be duly filed and shall be given a date of filing where the following elements at least have been received by the Patent Office:

14. a request for registration;
15. the name and address of the applicant;
16. material identifying the topography for which protection is sought;
17. a declaration concerning the date of first commercial exploitation and a sample of the integrated circuit in which the topography is embodied if commercial exploitation precedes the filing of the application.

### **Contents of Applications**

Art. 26 (1) In addition to the particulars under Article 25 (2), and application shall contain:

18. the name of the State of which the applicant is a national or in which he has permanent residence or in which he has a real and effective industrial or commercial establishment;
19. the name and address of the industrial property representative, where the applicant has a representative, and a power of attorney;
20. proof of payment of the fees.

(2) The applicant may declare the material referred to in Article 25 (2), item 3, or some parts of it as a trade secret.

(3) The documents and data shall be submitted in the Bulgarian language. Where they have been submitted in a language other than Bulgarian, the filing date shall be maintained if they are furnished in the Bulgarian language within a three-month period from the date.

### **Formal Examination**

Art. 27 Each application shall be checked to ascertain whether the requirements of Article 26 are met. If defects are ascertained, the applicant shall be given a period of three months to remove them.

### **Termination of Procedure**

Art. 28 (1) Where the applicant fails to remove defects within the time limit referred to in Article 27 or the application is filed after the expiration of the time limit under Article 14 (1), item 1, the Patent Office shall take the decision to terminate the procedure.

(2) A decision under paragraph 1 above may be appealed from to the Sofia City Court within three months in accordance with the Law on Administrative Procedure.

### **Registration of Topographies**

Art. 29 Where an application satisfies the requirements referred to in Articles 25 and 26, the topography shall be recorded in the State Register of Topographies. The Patent Office shall issue a certificate of registration in the name of the owner and shall publish the registration in the Official Bulletin of the Patent Office.

### **Changes in Name and Address of Owner**

Art. 30 (1) The owner of a right in a topography shall be required to notify the Patent Office of any change in his name and address.

(2) Changes shall be recorded in the State Register of Topographies at the request of the owner.

(3) All documents of which the owner must be notified shall be sent to the address last

recorded in the State Register of Topographies.

### **Extension and Restoration of Time Limits**

Art. 31 (1) The time limit under Article 27 may be extended by three months, but no more than twice, at the request of the applicant prior to the expiration of the time limit.

(2) Time limits which have been exceeded due to specific unforeseen circumstances may be restored at the request of the applicant or the owner. The request shall be filed within a period of up to three months after the reason for exceeding the time limit has ceased to exist, but no later than one year after the expiration of the exceeded time limit. The decision on restoration of the time limit shall be taken by the President of the Patent Office.

## **Chapter IV - CIVIL LAW PROTECTION**

### **Infringement of Rights**

Art. 32 Any exploitation of a registered topography in the course of commercial activities within the meaning of Article 15 (2) without the consent of its owner shall constitute an infringement of the exclusive right.

### **Right to Claim**

Art. 33 (1) The right to a claim for infringement shall belong to the owner of the right in a topography.

(2) A licensee under an exclusive license may bring such claim if the owner fails to exercise his right within one month after receiving a notification of the infringement from the licensee.

(3) A licensee under a non-exclusive license may only bring a claim with the consent of the owner, unless otherwise agreed.

### **Claims for Infringement**

Art. 34 (1) Claims for infringement of rights under this Law may be:

- 21. a declaratory claim to establish the fact of the infringement;
- 22. a claim for ceasing the infringement;
- 23. a claim for compensation for damages.

(2) Simultaneously with the claim under paragraph 1 above, the owner may also request:

- 24. reworking or destruction of the infringing object;
- 25. publication of the judgment of the court in two daily newspapers at the expense of the offender.

### **Claims for Invalidation of Registrations**

Art. 35 (1) Any interested party may, throughout the duration of protection of a topography, bring a claim for invalidation of the registration under Article 23 (1).

(2) On the basis of a final court judgment, the Patent Office shall delete the registration and a notice shall be published in the Official Bulletin of the Patent Office.

### **Claims for Right to Apply**

Art. 36 Any interested party may bring a claim for the right to apply under Article 11 within two years from the publication of the registration in the Official Bulletin of the Patent Office.

## **Claims for Service Topographies**

Art. 37 (1) Any interested party may bring a claim to establish whether a topography is a service topography within the meaning of Article 12 (1).

(2) A claim under paragraph 1 above shall be lodged to not later than one year after the date the registration has become known.

(3) In the case of disputes in connection with Article 12 (4), the party disagreeing with the fixed remuneration may lodge a claim concerning the rate of the remuneration.

## **Jurisdiction**

Art. 38 Claims under this Law shall fall within the jurisdiction of the Sofia City Court.

## **ADDITIONAL PROVISION**

Sect. 1. For the purpose of this Law:

- 26. "Integrated circuit" means a product in its final form or an intermediate form, which is intended to perform the functions of generating, transmitting, receiving, processing and/or storing information, and in which the elements and some or all of the interconnections are integrally formed in and/or a common substrate.
- 27. "Topography of an integrated circuit" means the three-dimensional arrangement, however expressed, of the elements and of some or all of the interconnections of an integrated circuit, or such three-dimensional arrangement prepared for an integrated circuit intended for manufacture.
- 28. "Local industrial property representative" means a person who is a representative within the meaning of Article 3 of the Patent Law.

## **TRANSITIONAL AND FINAL PROVISIONS**

Sect. 2. The protection of a topography which has been commercially exploited before the filing date of an application shall be effective as from the date of entry into force of this Law, provided that an application is filed after that date.

Sect. 3 In Article 587 (1) of the Commercial Code (published in the State Gazette issue 48, 1991, amended in issue 25, 1992, issues 61 and 103, 1993, issue 63, 1994, issue 63, 1995, issues 42, 59, 83, 86 and 104, 1996, issues 58, 100 and 124, 1997, issues 52 and 70, 1998, issues 33, 42 and 64, 1999) the words "topography of an integrated circuit" shall be added after the word "mark".

Sect. 4 In Article 19 (2), item 2, of the Law on Book-keeping (published in the State Gazette, issue 4, 1991, amended in issue 26, 1992, issue 55, 1993, issues 21, 33 and 59, 1996, issue 52, 1997, issue 21, 1998, issue 57, 1999) the words "topographies of integrated circuits" shall be added after the word "patents".

Sect. 5 In § 1, item 8 of the Law on Corporate Income Taxation (published in the State Gazette, issue 115, 1997, corrected in issue 19, 1998, amended in issues 21 and 153, 1998, issues 12, 50 and 51, 1999) the words "topographies of integrated circuits" shall be added after the word "patent".

Sect. 6. The President of the Patent Office shall issue Implementing Regulations to this Law.

Sect. 7. The Council of Ministers shall approve a schedule of fees according to Article 5 above.

Sect. 8. This Law shall be executed by the President of the Patent Office.



Sect. 9. This Law shall enter into force three months after its publication in the State Gazette.