

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

## **Article 1**

This law shall regulate the subject-matter and conditions of protection of topography of integrated circuits (hereinafter referred to as: topography), the rights of authors and method of their exercise, as well as the rights of the enterprise or other legal entity the topography originated from.

## **II. SUBJECT AND CONDITIONS OF PROTECTION**

### **1. Subject-matter of Protection**

#### **Article 2**

For the purposes of this law, topography shall be understood to mean a three-dimensional disposition of elements, of which at least one is active, and of inter-connections in integrated circuit, or such three-dimensional disposition prepared for the production of a given integrated circuit.

For the purposes of this Law, integrated circuit shall be understood to mean a finished product or intermediate product in which a specific electronic function is realized, and in which the elements, of which at least one is active, and interconnections are integrally formed in a piece of a material or on a piece of a material or both in a piece and on a piece of a material.

#### **Article 3**

This Law shall not protect the technology used in production of topography or integrated circuit, information stored in the integrated circuit, ideas, procedures, processes, systems, methods of work, concepts, principles or discoveries, irrespective of the manner of their description or explanation.

### **2. Conditions for Protection**

#### **Article 4**

Only topography that is a result of intellectual endeavors of the author and that was not widely known among the authors of topographies and producers of integrated circuits at the moment of its creation.

Topography composed of a combination of elements and generally known interconnections, shall be protected only if, taken as a whole, complying with the conditions referred to in paragraph 1 of this Article.

#### **Article 5**

Protection of topography may be requested within two years from the date of its first commercial use wherever in the world.

If topography has not been commercially used, protection of topography may be requested within 15 years from the day of its creation.

### **3. Persons Entitled to Protection**

#### **Article 6**

The right to protection of topography shall have its author or his/her successor in rights and/or author's employer or its successor in rights. If topography was created by more than one author, all coauthors shall enjoy the joint right to protection.

The provisions of the law that regulate patents shall be applied mutatis mutandis to the protection of topography created by an employee.

#### **Article 7**

Foreign persons shall have the right to protection of topography in Serbia and Montenegro subject to reciprocity. In case of doubt, the reciprocity shall be proven to exist by the person invoking it.

In the proceedings for protection before the organization of the Council of Ministers responsible for intellectual property matters (hereinafter referred to as: competent authority), foreign person shall be represented by a professional agent, which must be a domestic citizen or legal entity.

## **III. PROTECTION PROCEDURE**

### **1. Common Provisions**

#### **Article 8**

Legal protection of topography shall be realized through the administrative proceedings conducted by the competent authority.

Decisions taken by the competent authority shall be final, however the administrative dispute proceedings may be initiated against such decisions.

## **2. Initiating Proceedings for the Protection of Topography**

### **Article 9**

Proceedings for protection of topography shall be initiated by submission of application for protection of topography (hereinafter referred to as: the application) to the competent authority.

The competent authority shall not verify whether the applicant has the right to protection.

A separate application shall be submitted for each of topographies.

## **3. Applications of Domestic Persons in Foreign Countries**

### **Article 10**

A domestic person shall be entitled to request the protection of topography in a foreign country after the expiration of the period of three months from the day of submitting the application to the competent authority.

## **4. Contents of the Application**

### **Article 11**

The application shall contain a request for recognition of the right to topography and attachments.

The request for recognition of the right to topography shall contain:

- 1) name of topography;
- 2) data on the applicant and the author of topography, where the applicant is not the author;
- 3) date of submitting the application;
- 4) date of creation of topography, if topography has not been commercially used, or date and place when topography has been commercially used for the first time anywhere in the world.

The application for recognition of the right to topography shall be accompanied with the following attachments:

- 1) description of topography, together with data specifying electronic function performed by the integrated circuit made according to the topography;
- 2) graphic presentation or presentation of topography in other appropriate to enable topography to be identified;
- 3) a copy of the integrated circuit made according to the topography for which protection is requested, if the integrated circuit has been commercially used;
- 4) the evidence of commercial use of the topography;
- 5) the statement on the right to submit the application if the applicant is not the author of the topography.

At the time of submission of the application, the applicant may demand the parts of the attachments, referred to in paragraph 3, item 2 of this Article, constituting business secret, not to be disclosed or made accessible to a third party, on condition that the remaining parts of the attachments referred to in paragraph 3, item 2 of this Article are sufficient for identification of the topography.

The evidence of payment of the filing fee shall be submitted together with the application.

The contents of the application for recognition of the right to topography, as well as of the attachments to the application, shall be established by the specific legislation.

## **5. Examination of the Application**

### **Article 12**

On receipt of the application, it shall be examined whether the subject of the application is the topography as referred to in Article 2, paragraph 1 of this Law and whether the application has been submitted within the time limit referred to in Article 5 of this Law.

Upon determining compliance with the conditions referred to in paragraph 1 of this Article, the competent federal body shall examine:

- 1) whether the application has been submitted through an agent as referred to in Article 7 paragraph 2 of this Law, if the applicant is a foreign person;
- 2) whether a separate application has been submitted for each topography as referred to in Article 10, paragraph 3 of this Law;
- 3) whether the application contains all data from the application for recognition of the right referred to in Article 12, paragraph 2 of this Law, as well as the attachments referred to in Article 12, paragraph 3 of this Law;
- 4) whether the filing fee has been paid;
- 5) whether the application for recognition of the right to topography and the attachments to be submitted with the application, has had the prescribed contents referred to in Article 12, paragraph 6 of this Law.

If, after the procedure of examination of the application performed pursuant paragraphs 1 and 2 of this Article, the competent authority determines that all the requirements referred to in these paragraphs have been met, it shall make a decision to recognize the right to topography.

Where the application was not submitted within the time period referred to in Article 5 of this Law, the competent authority shall decide to reject the application.

If, after the procedure of examination of the application performed pursuant paragraphs 1 and 2 of this Article, the competent authority determines that the subject of the application is not the topography referred to in Article 2, paragraph 1 of this Law,

If, pursuant to the performed procedure of examination of the application referred to in paragraphs 1 and 2 of this Article, the competent federal body shall determine that the subject of the application is not the topography to the effect of Article 2, paragraph 1 of this Law and/or that the application has not been submitted pursuant to paragraph 2 of this Article, the competent authority shall, within 30 days from the application date, notify the applicant in writing about the deficiencies inviting him/her to rectify them within the period that shall neither be less than 30 days, nor shall it exceed three months.

Should the applicant fail to rectify deficiencies referred to in paragraph 5 of this Article within the established time limit, the competent authority shall make a decision to refuse the application for recognition of the right (Article 2, paragraph 1) or a decision to reject the application (paragraph 2 of this Article).

## **6. Registration, issuance of certificate and Publication of Recognized Right**

### **Article 13**

The competent authority shall keep the following public registers:

- 1) The Register of Topography Applications, into which data from the application for recognition of the right and the attachments referred to in Article 11, paragraph 3 of this Law shall be entered;
- 2) Register of Topographies, into which data on the recognized rights to protection shall be entered.

The contents of the public books referred to in paragraph 1 of this Article shall be established by the specific legislation.

## **Article 14**

The recognized right to topography shall be entered into the Register of Topographies.

Upon the entry into the Register of Topographies, a right holder shall be issued a certificate of protected topography that shall have the prescribed content.

Prescribed data on the recognized right referred to in paragraph 1 of this Article, shall be published in the official publication of the competent authority (hereinafter referred to as: the official publication).

## **7. Making Topography Accessible to the Public**

### **Article 15**

Upon the entry into the Register of Topographies, any person shall have the right to review the application and to obtain a copy of the application for recognition of the right to topography, as well as of the attachments referred to in Article 11, paragraph 3, items 1, 2, 4, and 5 of this Law.

The parts of the attachments, designated as business secret, shall not be made accessible to a third party without permission of the right holder or without the court decision.

Review of the attachments shall be free of charge.

## **III. CONTENTS, RESTRICTION AND DURATION OF THE RIGHT**

### **1. Contents of the Right**

#### **Article 16**

The right holder of the topography shall have the exclusive right to:

- 1) reproduce the protected topography as a whole or its essential parts;
- 2) produce integrated circuits containing the protected topography or its essential parts;
- 3) import, offer to place into circulation or place into circulation, or use commercially in any other way protected topographies or essential parts thereof, or integrated circuits containing the protected topography or essential parts thereof.

## **2. Restriction of the Right**

### **Article 17**

Reproduction of topography:

- 1) for personal use for noncommercial purposes;
- 2) for teaching about topography, and for expert analyses or researches,

shall not be deemed violation of the right referred to in Article 16, item 1 of this Law.

It shall not be deemed violation of the right referred to in Article 16 of this Law if a person, based at the analysis or research of the protected topography, creates topography that meets requirements referred to in Article 4, paragraph 2 of this Law and uses it in compliance with the provisions of Article 16 of this Law.

## **3. Exhaustion of the Right**

### **Article 18**

The acts referred to in Article 16, item 3 of this Law shall not be deemed violation of the right if they are related to the protected topography placed into circulation for the first time by the right holder or the person who has his/her consent to do so.

## **4. Validity of the right**

### **Article 19**

Validity of the right to topography shall commence as of the filing date of the application that meets requirements referred to in Article 11, paragraph 3, items 1 and 2 of this Law, or as of the day of the first commercial use of topography, whichever is earlier.

The right to topography shall cease on the expiration of the calendar year in which it will be 10 years from the day of commencement of validity of the right to topography referred to in paragraph 1 of this Article.

## **IV. ASSIGNMENT OF RIGHTS**

### **Article 20**

The right to topography may, as a whole or partly, be the subject of assignment under the contract of assignment or on the basis of inheritance.

Specific or all entitlements stemming from the right to topography may, with or without restrictions, be the subject of assignment under the licensing agreement.

The contracts referred to in paragraphs 1 and 2 of this Article shall be valid only if made in writing.

At the request of one of the contracting parties, the contracts referred to in paragraphs 1 and 2 of this Article shall be entered in the Register of Topographies.

The contracts referred to in paragraphs 1 and 2 of this Article shall produce effect vis-à-vis a third party only if entered in the Register of topographies.

The last person entered in the Register of Topographies shall be deemed the right holder of the topography.

## **V. ANNULMENT OF RIGHTS**

### **Article 21**

The competent authority may, ex officio or at the proposal of the interested person, annul decision on recognition of the right to topography during the validity of the right, if it determines that at the moment the decision was made:

- 1) the subject of protection was not the topography as referred to in Article 2, paragraph 1. of this Law;
- 2) the topography did not meet requirements for protection referred to in Article 4 of this Law;
- 3) the application was submitted within the time limit referred to in Article 5 of this Law;
- 4) the right holder of topography had no right to protection as referred to in Article 7, paragraph 1 of this Law, or if he has failed to provide an agent as referred to in Article 7, paragraph 2 of this Law;
- 5) the attachments referred to in Article 11 did not have prescribed contents;
- 6) the attachments referred to in Article 11, paragraph 3, items 1 and 2 of this Law did not match the integrated circuit attached to the application for recognition of protection.

Where the person who submitted a proposal to annul the decision on recognition of the right to topography desists from his request during the proceedings, the competent authority may nevertheless proceed with the proceedings ex officio.

## **Article 22**

The proposal for annulment of the right to topography shall be submitted to the competent authority in writing, in two copies, and shall contain explanation and necessary evidence.

The evidence of a fee paid for annulment shall be submitted with the proposal for annulment of the right to topography.

## **Article 23**

The competent authority shall inform the right owner of the topography about the proposal for annulment and invite him/her to submit written answer, in two copies, within the period not exceeding 60 days.

Should the right owner fail to submit the answer within the time prescribed, the competent authority may decide upon the proposal for annulment on the basis of the available evidence.

If the right owner has submitted the answer within the prescribed time, the competent authority shall submit a copy of the answer to the person who proposed the annulment and shall set the date for the hearing.

Should the parties fail to attend the hearing, the competent authority may decide upon the proposal for annulment on the basis of the available evidence.

The party, in favor of which the decision has been made, shall have the right to compensation of expenses of the proceedings

The prescribed data from the decision on annulment of the right to topography, shall be published in the official publication in the prescribed manner.

## **Article 24**

The annulment of the decision on recognition of the right to topography shall produce no retroactive effect either on the final court rulings relating to determining violation of the right, or on the contracts on assignment of the right and/or cession of the license, if and to the extent these contracts have been executed, on condition that the complainant and/or the right holder claimant acted in good faith.

## **VI. CONFIDENTIAL APPLICATIONS**

### **Article 25**

Applications by domestic persons of topographies being of importance for defense or security of Serbia and Montenegro shall be deemed confidential.

Confidential applications shall not be published.

The provisions of the law governing patents shall be applied mutatis mutandis to the confidential applications.

## **VII. CIVIL PROTECTION**

### **1. Complaint Because of the Violation of the Right**

#### **Article 26**

The right owner of topography or the holder of exclusive license to protected topography may file a complaint to the competent court because of the violation of their exclusive rights referred to in Article 16 of this Law.

When determining the violation of the right to topography, the court shall in particular take into consideration the restriction of the rights referred to in Article 17, as well as about the exhaustion of the rights referred to in Article 18 of this Law.

The complaint referred to in paragraph 1 of this Article may request:

- 1) determining violation of the right;
- 2) cessation of violation of the right;
- 3) compensation of material damages (direct damage and loss profits);
- 4) publishing the judgment at the expense of the defendant.

The complaint referred to in paragraph 1 of this Article, may be filed within the period of one year as of the day of discovery of the violation and the perpetrator, but not later than three years from the day the violation was done.

Proceedings following the complaint referred to in paragraph 1 of this Article shall be administered in an expedited manner.

## **Article 27**

The use of an integrated circuit referred to in Article 16, paragraph 3, item 3 of this Law by the person who, at the time of acquisition, did not know or could not have known that the protected topography was contained in it shall not be deemed the violation of right.

As of the moment when the person referred to in paragraph of this Article has found out, or was able to find out that integrated circuit contains protected topography, such person shall have an obligation to pay remuneration for the use of the topography to the right holder of the topography, in a manner prescribed in Article 16, paragraph 3 of this Law.

The amount of the remuneration that the right holder referred to in paragraph is entitled to shall be equal to the remuneration that the author should have received under the freely negotiated license agreement.

Where the violation was intentional the plaintiff may, instead of the material damages, request the defendant to pay up to three time the usual license fee that would have been paid had the use of the topography been lawful.

## **2. Complaint to Contest the Right to Protection**

### **Article 28**

The creator of a topography or his successor in rights may file a complaint and require the court to establish that he has the right to protection of topography, instead of the person who has submitted the application for protection of topography or together with such person, or the person who is the right holder of the topography.

The complaint referred to in paragraph 1 of this Article may be filed during the validity of protection of the topography.

Where the court grants the claim referred to in paragraph 1 of this Article the competent authority shall, ex officio or upon the request of the plaintiff, enter the plaintiff in the appropriate register as the applicant or the right holder of topography.

Prescribed data on change of the right holder shall be published in the official publication.

## **VIII. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 29**

On the day this Law enters into force the Law on Protection of Topographies of Integrated Circuits (FRY OG No. 12/98) shall cease to be effective.

### **Article 30**

This Law shall enter into force on the eighth day from the day of publishing it in the "Official Gazette of Serbia and Montenegro".