

DRAFT

LAW OF GEORGIA ON TOPOGRAPHIES OF INTEGRATED CIRCUITS

ARTICLE 1

PURPOSE OF THE LAW

This Law regulates property and personal non-property relations formed in connection with the registration, exploitation and legal protection of the industrial property object - topography of integrated circuit.

ARTICLE 2

DEFINITIONS USED IN THE LAW

For the purposes of this Law, unless expressly stated otherwise:

a) integrated circuit (hereinafter - IC) - a product intended to perform an electronic function in its final or an intermediate form, in which the elements at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material;

b) topography of integrated circuit (hereinafter - topography) - the three-dimensional disposition, however expressed, of the IC elements, at least one of which is an active element, and of some or all of the interconnections, or such a three-dimensional disposition prepared for an IC intended for manufacture;

c) certificate on topology (hereinafter - certificate) - the document registered in respect to this Law, granted in the name of topography proprietor, confirming his exclusive rights;

d) application - collection of documents necessary for registration of a topography, made in respect to the approved requirements;

e) "Sakpatenti" - National Intellectual Property Center of Georgia a legal entity of public law, which provides for the legal enforcement of the rights of natural persons and legal entities in the sphere of intellectual property protection;

f) Chamber of Appeals - a body existing at Sakpatenti, which considers the litigation as regards to the procedure of securing of the rights for the intellectual property objects.

ARTICLE 3

ARISING OF EXCLUSIVE RIGHTS

1. Exclusive right on topography arises by registration of a topography at Sakpatenti.
2. The certificate is granted in the name of the proprietor of the registered topography.

ARTICLE 4

VALIDITY TERM

Validity term of the topography is 10 years as from the filing day with Sakpatenti.

ARTICLE 5

ORIGINALITY

1. In respect to this law an original topography shall be registered.
2. A topography shall be considered original, if it is the result of intellectual effort and was not commonplace at the date of creation.

3. The topography, consisting of elements, that are commonplace for its creation date, shall be considered to be original, if it is the result of intellectual effort and is not commonplace in the whole.

4. Exploitation of the topography by the designer of topography, or by the other person, who for the application filing date has the right to secure the certificate, or by the third party, for which said topology became available from the designer in direct or indirect way, that otherwise would effect the originality of topography presented in the application, shall have no effect, if the topography was exploited during two years before the application lodging date.

ARTICLE 6

DESIGNERS (CO-DESIGNERS)

1. As a designer of topography (hereinafter - designer) shall be deemed a natural person, in result of the intellectual efforts of which was created a topography.

2. If the topography was created in result of joint intellectual efforts of several natural persons, each of them shall be deemed to be a co-designer.

3. The designer of topography is entitled to have his name mentioned in the certificate.

ARTICLE 7

RIGHT TO SECURE THE CERTIFICATE

1. The designer or his successor have the right to secure the certificate.

2. The right to secure the topography certificate, which is the result of joint intellectual efforts of several persons, is entitled to all the designers jointly, as well as to each of them, where the other designers refuse to obtain the certificate.

3. Where the topography was created by an employee in the course of his employment or in result of a special order, the right to secure the certificate is entitled to the employer, unless otherwise provided for by the contract.

4. Where the right to secure the certificate belongs to the employer, the employee on basis of mutual agreement is entitled to require the additional relevant remuneration from the employer.

5. Where the topography is created pursuant to state order or in the course of employment in respect to the contract concluded between the organizations, the right to secure the certificate shall be defined by the order or the contract terms.

ARTICLE 8

SCOPE OF THE EXCLUSIVE RIGHTS AND INFRINGEMENT

1. The certificate proprietor has an exclusive right to use the topography at his own discretion, or prohibit its use. Whereas, the exclusive right does not apply to any idea, technique, system, technology or coded information embodies in a topography.

2. As the infringement of the exclusive rights shall be considered the following acts done without any consent:

a) reproduction of the topography or any substantial part thereof with the purpose to incorporate it in IC, with the exception of the part, which is not original;

b) use, import, offer for sale, sell or include otherwise the topography or IC incorporating the topography in the course of trade.

ARTICLE 9

WARNING INDICATION

The proprietor of topography is entitled to mark the IC of the product containing it with a warning indication, including the following:

- a) letter T in a circle;
- b) topography registration date;
- c) name of the proprietor.

ARTICLE 10

EXPLOITATION, THAT SHALL NOT BE DEEMED TO BE THE INFRINGEMENT OF EXCLUSIVE RIGHTS

1. The following shall not be deemed to be the infringement of topography proprietor's exclusive rights:

- a) use of the topography, or product incorporating thereof for sole purpose without gaining any profit, also for analysis, research or teaching;
- b) further distribution of IC product in which the topography is embodied by the topography proprietor or with his consent;
- c) any action in regard to IC by a person, who purchased the IC in good faith without being able to know, that IC incorporated a protected topography, which was reproduced illegally. As of the date on which such person receives the documentary notification about illegal use of the topography, he can do any action in regard to the existing stock or ordered products, but must pay to the proprietor of rights a reasonable royalty, that would be paid for such a topography at purchasing of the license voluntarily.

2. The actions of the subsection 2 of Article 8 shall not be deemed to be infringement of exclusive rights:

- a) exploitation of the identical topography made independently by the other person before publication of the registered topography in the Official Bulletin;
- b) creation by the other person of an improved topography on basis of research of the commonplace topography, if the new topography complies the requirements of originality.

ARTICLE 11

APPLICATION AND FILING OF THE APPLICATION FOR EXAMINATION

1. An application is filed with Sakpatenti directly by the designer of topography, his successor (applicant), or by their representative.

2. Foreign persons or their representatives conduct their relations with Sakpatenti in respect to the Article 65 of the Patent Law of Georgia.

3. The application must concern to only one topography.

4. The application shall contain:

- a) a request for registration of topography, drawn up in respect to the prescribed rule, containing: full name of the applicant (title) and address; correspondence address, or full name and address of the representative, where the application is filed by the representative;
- b) materials fully illustrating the topography, including the abstract;
- c) document confirming the payment of the fee for the application examination as to form;
- d) power of attorney issued in the name of representative, where the application is filed with Sakpatenti by the representative.

5. The application shall be considered as filed from the day, when the request for registration of topography and materials illustrating the topography, including the abstract, are furnished to Sakpatenti.

ARTICLE 12

EXAMINATION OF APPLICATION, PUBLICATION, GRANTING OF CERTIFICATE

1. Sakpatenti conducts examination as to form, on basis of which takes the relevant decision on granting of the certificate.

2. Sakpatenti confirms the applications filing date, when the fee for examination as to form is paid.

3. Where it is recognized, that the application complies with the requirements of the examination as to form, Sakpatenti takes the decision on registration of topography.

4. After taking the favorable decision on registration of the topography and paying of the fee, Sakpatenti registers the topography in the “Register of Integrated Circuits Topographies”, grants the certificate on topography and publishes the data in the Official Bulletin of Sakpatenti.

5. Before publishing the data the applicant respecting the Sakpatenti request, or by his own initiative can complete, verify and correct the application materials.

6. At pending of the application Sakpatenti can request the applicant to present additional materials and make the amendments in the application without which the application cannot be examined.

7. The procedures relating to the application examination and registration are defined by the approved rule.

ARTICLE 13

FEES

1. For examination as to form, topography registration and granting of the certificate, publication of data, annual maintenance and other legal activities shall be subject to payment of the fee, the amount and conditions of payment are defined by the rule approved by legislation.

2. It is admissible to revise the fees respecting the international norms, changes of national currency rate and inflation.

ARTICLE 14

LICENSE CONTRACT

1. The assignment of the exclusive rights on basis of the license contract and registration is carried out in respect to the 59, 62 Articles of the “Patent Law of Georgia”.

2. It is admissible to issue the compulsory license with the purpose of using the topography in semiconductor technologies only in the cases, when the use is due to the state non-commercial interests, or is conditioned by court or administrative acts aimed prevent the unfair competition.

ARTICLE 15

LITIGATION

1. The proprietor of the topography or the party concerned can appeal against the decision of Sakpatenti or the Chamber of Appeals in respect to the Article 68 and Article 69 of the “Patent Law of Georgia”.

2. The proprietor of the topography in the case of litigation relating to the infringement of his rights can demand:

- a) prevention of acts infringing his rights;
- b) compensation of damages, including the profit he could receive;
- c) destruction or confiscation of the IC incorporating the topography used with the commercial purpose;

ARTICLE 16

USE OF THE RIGHTS AWARDED BY THE LAW

Foreign natural persons and legal entities enjoy the rights provided for by the present Law in respect to the international treaties or on basis of reciprocity principle.

ARTICLE 17

DATE OF ENACTING THE LAW

This Law shall be enacted from the moment of publication.

D. Gabunia
Director General