

**REPUBLIC OF CROATIA  
STATE INTELLECTUAL PROPERTY OFFICE**

**DRAFT LAW  
ON THE PROTECTION OF LAYOUT-DESIGNS  
OF INTEGRATED CIRCUITS**

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**Draft Law on the Protection  
of Layout-designs of Integrated Circuits**

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# **Draft Law on the Protection of Layout-designs of Integrated Circuits**

## **I. General Provisions**

### Article 1

This Law regulates the protection of layout-designs of integrated circuits.

### Article 2

The State Intellectual Property Office of the Republic of Croatia (hereinafter: the Office) shall carry out the administrative procedure relating to the protection and shall keep the register of protected topographies.

Decisions taken by the Office shall not be appealed against, however an administrative lawsuit may be instituted by bringing charges before the Administrative Court of the Republic of Croatia.

The register referred to in paragraph 1 of this Article shall be public.

### Article 3

Integrated circuit means a product, in its final form or an intermediate form, which contains elements of which at least one is an active element, some or all of which are interconnected in or on a piece of material and which are intended to perform an electronic function.

Layout-design – topography – of an integrated circuit means the three-dimensional presentation of elements, however expressed, of which at least one is an active element of some or all of the interconnections of an integrated circuit, or such a three-dimensional presentation of an integrated circuit prepared for production.

Creator – author – of a topography is the natural person who has created the topography by his or her own creative intellectual work.

A holder of the right is the natural person or the legal entity which, according to this Law, has been granted protection of the topography.

Commercial exploitation of the topography means production, sale, leasing, rental or any other way of commercial use of the topography or the integrated circuit produced on the basis of the topography.

## **II. Right to Protection**

### Article 4

The right to the protection of a topography under this Law shall apply in favour of its creator.

If the topography has been created jointly by several persons, the right to protection of the topography shall equally apply to all its creators, unless otherwise provided by a contract.

If the topography has been created in the course of employment or on commission, the right to protection of the topography shall apply in favour of the employer of the creator or in favour of the person who has commissioned the topography, unless otherwise stipulated by terms of employment or commission.

The right to protection referred to in paragraphs 1 and 2 of this Article shall apply to natural persons who are nationals of the Republic of Croatia or to legal entities having headquarters in the territory of the Republic of Croatia.

The right to protection referred to in paragraphs 1 and 2 of this Article shall also apply in favour of natural persons who are not nationals of the Republic of Croatia and have no residence in the territory of the Republic of Croatia or to foreign legal entities if this results from international treaties and conventions or from the application of the principles of reciprocity.

#### Article 5

The right to the protection of a topography shall be transferable.

### **III. Protection Requirements and Granting Procedure**

#### Article 6

A topography shall be protected if it is original.

A topography shall be deemed original if it is a result of the creator's own intellectual work and has not been applied in the industry of semiconductors at the time of its creation.

If a topography contains elements that have been applied in the industry of semiconductors, the combination of these elements shall be protected only if it fulfils the requirements related to originality stipulated by paragraphs 1 and 2 of this Article.

#### Article 7

Topography granting procedure shall be started by filing to the Office a request for the entry of a topography into the register, which has to be supported by all the prescribed elements (hereinafter: application).

An application shall contain the following elements:

- a) name and signature of the applicant, name of the creator and their nationality, residence or headquarters respectively,
- b) material identifying the topography,
- c) written statement as to the date of the first commercial exploitation if that date is earlier than the date of filing the application,
- d) short description of characteristics of the electronic function or functions of the integrated circuit, produced on the basis of that topography.

By one application the protection of only one topography may be applied for.

The Director of the Office shall enact a regulation defining the data which should be contained in the application.

#### Article 8

Material to be attached to the application under Article 7, paragraph 2, subparagraph b) of this Law, for the purpose of identifying the topography, shall consist of:

- a) drawings or photographs of layouts for the production of the integrated circuit or
- b) drawings or photographs of masks or parts thereof for the production of the integrated circuit or
- c) drawings or photographs of individual layers of the integrated circuit.

The following may be attached to the material referred to in paragraph 1 of this Article: data carriers, their printouts, the integrated circuit for the topography of which the protection is applied for, or a detailed description.

The applicant has the right to mark any of the required materials or any of the parts thereof as trade or business secrets, in which case these parts will be made unreadable.

#### Article 9

The Office shall examine whether an application complies with the requirements referred to in Article 7 of this Law.

If the application does not comply with the requirements referred to in Article 7 of this Law, it shall be considered as incorrect and the Office shall invite the applicant to remedy all defects within a period not shorter than one month and not longer than three months.

If the applicant remedies all defects in the period referred to in paragraph 2 of this Article, the date of receipt of the correct application shall be deemed as the filing date of the application.

If the applicant does not remedy all defects within the period referred to in paragraph 2 of this Article, the application shall be rejected by a decision.

#### Article 10

If the application complies with the requirements referred to in Article 7 of this Law, the applicant, as the holder of the protected right, shall be issued a decision on the grant of the right to a topography and the protected topography shall be entered in the register of topographies.

Data on the entry shall be published in the Office official gazette.

#### Article 11

The granting procedure, as well as the maintenance of the rights shall be subject to the payment of the prescribed fees.

The Director of the Office shall enact a regulation defining the amount of fees referred to in paragraph 1 of this Article.

#### Article 12

The decision on the grant of the right to a topography shall be declared null and void if the following is established:

- a) that the topography is not original,
- b) that the application was filed by a natural person or a legal entity not entitled to the protection,
- c) that the application was not filed within the prescribed period referred to in Article 20 of this Law,
- d) that the identification of the protected topography is not possible on the basis of layouts relating to it.

The procedure relating to the declaration of the decision on the grant of the right to a topography null and void may be initiated by the Office ex officio, by any natural person or legal entity or by the state attorney on the grounds prescribed in paragraph 1, subparagraphs a), b), c) and d) of this Article, during the entire duration of protection.

### **IV. Effects of Protection and Limitations**

#### Article 13

The holder of the right to a protected topography has the exclusive right of its commercial exploitation, including the right to allow or prohibit the following acts:

- a) reproduction of the topography in any manner or any form whatsoever,
- b) import, sale or other forms of putting into circulation of the topography or the integrated circuit containing the protected topography, as well as of products containing the integrated circuit with the protected topography.

Exclusive rights referred to in paragraph 1 of this Article shall not apply to the concept, process, system or technology of production of the topography.

#### Article 14

Without the consent of the holder of the right to a topography the following shall be allowed:

- a) reproduction of the protected topography for non-commercial purposes,
- b) reproduction of the protected topography for the purposes of analysing or assessing concepts, processes, systems and technologies contained in the topography, or for the needs of teaching or research, or
- c) commercial exploitation of a new topography which has been created on the basis of research and analysis of the protected topography but is deemed

original and a result of personal creative effort of its creator and is not known from everyday use in the industry of semiconductors.

#### Article 15

A person whose rights resulting from the protected topography have been infringed may request, beside a compensation for damage, the ordering of measures for preventing further infringement of his or her protected rights.

A person infringing the rights resulting from the protected topography shall be responsible for the damage in accordance with general principles on compensation for damage.

Provisions referred to in paragraph 1 of this Article shall also apply to the legal successor of the protected topography.

#### Article 16

A person who commercially exploits an integrated circuit with a protected topography without knowing or without having reason to believe that it is a protected topography shall not be prohibited to commercially exploit such an integrated circuit.

The holder of the right to the protected topography may demand, in writing, from the person referred to in paragraph 1 of this Article, a compensation for damage for the commercial exploitation of the protected topography, the amount of which shall depend on the extent of its commercial exploitation. The compensation for damage can be demanded as of the date on which the person referred to in paragraph 1 of this Article has found out, or had reason to believe, that it is a protected topography.

The compensation for damage referred to in paragraph 2 of this Article shall be defined by the holder of the protected topography and the person referred to in paragraph 1 of this Article in an agreement. If no agreement can be reached, the competent court shall determine the amount of compensation for damage.

The provision referred to in paragraph 1 of this Article shall also apply to the legal successor of that person.

The right to a commercial exploitation referred to in paragraph 1 of this Article shall be restricted to import, sale or any other form of putting into circulation of integrated circuit products or other products incorporating the protected topography, and this right shall apply to the topography or products available at the time of receiving the demand referred to in paragraph 2 of this Article.

#### Article 17

The holder of the protected topography may not prohibit offering for sale, sale and use of the products when the protected topography, integrated circuit containing the protected topography or the product incorporating such an integrated circuit have been put to the market in the Republic of Croatia by the right holder or with his explicit consent.

## **V. Commencement and Duration of Protection**

### Article 18

Exclusive rights shall commence on the earlier of the following dates:

- a) on the date of filing the application to the Office in accordance with Article 7 of this Law, if the topography has not been commercially exploited previously, or
- b) on the date of the first commercial exploitation of the topography, on whatever place in the world it has occurred.

### Article 19

Exclusive rights shall cease to be valid on the expiration of a period of ten years counting from the earlier of the following dates:

- a) end of the calendar year in which the first commercial exploitation of the topography anywhere in the world commenced or
- b) end of the calendar year in which the correct application was filed.

Exclusive rights shall cease before the expiration of the period referred to in paragraph 1 of this Article if the prescribed fees have not been paid or if the holder of the right renounces the right in writing.

Subject to the provisions of paragraph 1 of this Article, exclusive rights shall expire fifteen years after the creation of the topography if it has not been exploited commercially.

During the time of validity of exclusive rights, the holder of the protected topography shall be entitled to mark the integrated circuit by capital T.

### Article 20

The application may not be filed after the expiration of a two-year period from the date of commencement of the first commercial exploitation of the topography.

## **VI. Register of Protected Topographies and Data Published in the Office Official Gazette**

### Article 21

For each topography the following data shall be entered in the register of protected topographies:

- a) registration number of the protected topography,
- b) date of filing the application,
- c) date and number of the decision on the entry into the register,
- d) title of the topography,
- e) data on the applicant: family name, first name and residence, including the nationality of the applicant, if it is a natural person, or name and headquarters of the applicant if it is a legal entity, the data for legal entities having to correspond to those from the Register of Companies,

- f) data on the creator: family name, first name and title; the indication of the town and the country shall be sufficient;
- g) date of the first commercial exploitation of the topography, if the topography has already been exploited commercially,
- h) data on possible representative,
- i) data on changes referring to the transfer of the right, licence, cancellation, termination of protection and other changes relevant for the legal status of the protected topography.

The Director of the Office shall enact a regulation defining the data to be entered in the register of topographies.

#### Article 22

The Office shall publish data from the register of topographies and all changes of the legal status in the Office official gazette.

### **VII. Transitional and Final Provisions**

#### Article 23

Corresponding provisions regulating patent protection shall also apply to provisions on the representation of foreigners, on the right of co-holders, on the unavailability of unpublished applications, on the confirmation of the receipt of an application, on the entry of data and changes in the register, on the procedure for the cancellation of the right, on deadlines for bringing charges on the grounds of the infringement of the right, on the transfer of the right, on licence agreements and on representation.

#### Article 24

Provisions of this Law shall apply only to topographies created after its entry into force.

#### Article 25

Regulations referred to in Article 7, Article 11 and Article 21 of this Law shall be enacted within six months from entry into force of this Law at the latest.

#### Article 26

This Law shall enter into force on the eighth day following the date of its publication in "Narodne novine" Official Gazette of the Republic of Croatia.