

**LAW  
OF THE REPUBLIC OF TAJIKISTAN  
ON THE LEGAL PROTECTION OF THE TOPOLOGIES OF INTEGRATED  
CIRCUITS**

This Law shall govern the relationships deriving from the creation, legal protection and exploitation of the topologies of integrated circuits in the Republic of Tajikistan.

**CHAPTER 1  
GENERAL PROVISIONS**

**Article 1. Basic Concepts**

The basic concepts used in this Law are as follows:

- topology of an integrated circuit (hereinafter “topology”) shall mean the three-dimensional layout of all the elements constituting an integrated circuit and their interconnections fixed on a physical medium;
- original topology- is a topology which is the result of its creator's creative activity and is not known to the creator and (or) specialists in topology design as of the date of its creation.
- integrated circuit shall mean a microelectronic product in its final or intermediate form intended to perform the functions of an electronic circuit, the elements and interconnections of which constitute an integral part of the body and/or of the surface of the material on the basis of which the product was manufactured;
- right holder shall mean the creator, his heir or any other natural person or legal entity enjoying an exclusive right in the topology under the law or a treaty;
- deposited materials shall mean an assembly topological drawing, a set of photographic patterns or photographs of each layer of the integrated circuit, other documents providing identification of the registered topology.

**Article 2. Legislation of the Republic of Tajikistan on the legal protection of the topologies of integrated circuits**

The legislation of the Republic of Tajikistan on the legal protection of the topologies of integrated circuits shall be based on the Constitution of the Republic of Tajikistan and shall consist of the Civil Code of the Republic of Tajikistan, this Law and other legislative acts of the Republic of Tajikistan, as well as international legal regulations recognized by the Republic of Tajikistan.

**Article 3. Authorized State body on the legal protection of the topologies of integrated circuits**

Implementation of the functions in the field of the legal protection of the topologies of integrated circuits stipulated by this Law shall be entrusted to the Authorized State Body (hereinafter “Patent Office”).

The empowerment of the Authorized State body in the field of protection of the topologies of integrated circuits are determined by this Law and the Law of the Republic of Tajikistan “On inventions”.

In cases stipulated by this Law, the Patent Office, in accordance with its competence, shall issue regulatory legal acts on the application of this Law.

An Appeal Board shall be set up, attached to the Patent Office, and shall consider the issues brought to its competence by this Law. The Appeal Board shall carry out its authorized functions on the basis of the legislation of the Republic of Tajikistan, the “Appeal Board Statute” approved by the head of the Patent Office.

## **CHAPTER 2**

### **THE LEGAL PROTECTION OF THE TOPOLOGIES OF INTEGRATED CIRCUITS**

#### **Article 4. Subject Matter and Conditions of Legal Protection**

The legal protection afforded by this Law shall apply solely to topologies that are original.

A topology shall be accepted as original unless proved otherwise.

A topology which consists of the elements that are commonplace among specialists in topology design on the date of its creation shall enjoy legal protection only if those elements, taken as a whole, meet the requirement of originality.

Concepts, techniques, systems, technologies and encoded information, which may be embodied in the topology, shall not be the objects of the legal protection afforded by this Law.

#### **Article 5. Legal protection of a topology**

Legal protection of a topology in the Republic of Tajikistan shall be effected on the basis of its registration in accordance with the procedure established by this Law or shall arise from its usage.

A topology may be registered in the name of a natural person or of a legal entity.

The right in a topology is protected by the Law and shall be attested by a certificate

A certificate shall attest the authorship, the priority of the topology, and the exclusive right to exploit it.

The scope of the legal protection afforded to the topology shall be determined by a combination of elements and the interconnections as shown on the deposit of identifying materials.

#### **Article 6. Authorship in a topology**

A natural person whose intellectual creative work resulted in a topology shall be recognized as the creator thereof.

Where a topology results from joint intellectual creative work of several natural persons, each of those persons shall be recognized as the creator thereof.

Natural persons shall not be recognized as joint creators where they have not made a personal creative contribution to the creation of a topology, but have simply given the creator (or creators) technical, organizational or material assistance or helped in registration of the rights to use the topology.

The right of authorship of a protected topology shall be an inalienable personal right and shall be protected perpetually.

## **CHAPTER 3**

### **EXCLUSIVE RIGHT TO EXPLOIT A TOPOLOGY**

#### **Article 7. Exclusive right to exploit a topology**

The exclusive right to exploit a topology shall belong to the creator of the topology or any other right holder.

The exclusive right shall give the creator or any other right holder the possibility of exploiting the topology at will, in particular, by manufacturing and distributing integrated circuits incorporating the topology.

Use by other persons of the topology in respect of which the creator or other right holder possess the exclusive right, shall be permitted only with the consent of the latter.

#### **Article 8. Infringement of the exclusive right to exploit the topology**

The following acts shall constitute an infringement of the exclusive right to exploit the topology if performed without the authorization of the creator or any other right holder:

- reproduction of the whole or a part of the topology by incorporation it in an integrated circuit or in some other manner, except where the part that is reproduced is not original;
- use, importation, offering for sale, sale or any other form of placing on the market the topology or an integrated circuit in which the topology is incorporated.

#### **Article 9. Acts not recognized as infringements of the exclusive right to exploit a topology**

The following shall not be recognized as acts infringing the exclusive right to exploit a topology:

- actions for use of a topology, carried out by a third party for the private purposes without profit or for the sole purpose of evaluation, analysis, research or teaching;
- any actions for use of the identical original topology independently created by a third party;
- use of an integrated circuit incorporating a topology protected by a certificate where this integrated circuit has been lawfully placed on the market;

use of lawfully acquired integrated circuits or the products incorporating such integrated circuits, if the person using them did not know and should not have known, that these integrated circuits or the products incorporating such integrated circuits, are made and distributed with infringement of the exclusive right to use the topology. If after receipt of the appropriate notice from the right holder of the topology this person continues to use the integrated circuit or the product, he shall be obliged to pay an equitable remuneration for each integrated circuit or each product containing such an integrated circuit.

#### **Article 10. Transfer of the exclusive right to exploit the topology to other natural persons and legal entities**

The exclusive right to exploit the topology may be contractually assigned in whole or in part by the creator or any other right holder to other natural persons or legal entities. The contract of transfer in whole of the exclusive right to exploit the topology (contract of assignment of the rights in the topology) or the contract of transfer in part of the exclusive right to exploit the topology shall be subject to registration with the Patent Office and shall be deemed invalid without such registration.

The exclusive right to exploit the topology shall be inherited in the order established by law, and also by succession.

#### **Article 11. Exclusive right to exploit the topology created under a term of employment or a contract for hire**

The exclusive right to use the topology created by an employee in the course of employment or pursuant to commission by his employer, shall belong to the employer unless otherwise provided in the contract between them.

The conditions of payment and the amount of remuneration to the creator arising out of the creation and exploitation of the topology shall be laid down in the contract concluded between the creator and the employer.

Unless otherwise provided by contract, the exclusive right to exploit the topology created under a contract for hire shall belong to the commissioner where such person is not the employer of the creator.

#### **Article 12. Term of an exclusive right to exploit a topology**

The term of an exclusive right to exploit a topology shall be 10 years.

The commencement of the exclusive right to exploit a topology shall be determined by the earliest of the following dates:

- the date of the first exploitation of the topology, that is to say the earliest documented date on which the topology or an integrated circuit incorporating the topology was first commercially exploited anywhere in the world;
- the date of registration of the topology with the Patent office.

Where an identical original topology has been independently created by another person, the overall term of the exclusive right to exploit the topology may not be more than 10 years

### **CHAPTER 4 REGISTRATION OF A TOPOLOGY**

#### **Article 13. An application for registration of a topology**

An application for registration of a topology (hereinafter referred to as "application") shall be filed with the Patent Office by the creator, by the employer, whether natural person or legal entity (given the conditions specified in part 1 of Article 11 of this Law), by the person, whether natural person or legal entity, to whom the creator or the employer has contractually assigned the right to file the application or to whom that right has been transferred by succession (hereinafter referred to as – “applicant”).

Filing of an application, business transactions with the Patent Office may be performed by the applicant directly or through his representative.

An application for registration shall be filed within a period not exceeding two years after the date of the first exploitation of the topology if there has been exploitation.

An application for registration shall pertain to only one topology or may include its variants.

An application shall contain the following materials:

- a request for the grant of a certificate with the indication of a person (s) in whose name a certificate is sought and the creator, unless the latter didn't object against being mentioned as such, their places of business (residence), together with the date of the first exploitation of the topology if that exploitation has taken place;
- deposit of identifying materials;
- an abstract.

The requirements to be met by the documents constituting an application shall be specified by the Patent Office.

The application shall be accompanied by the following documents:

- a document proving payment of the obligatory charges or the existence of conditions justifying exemption from that payment or a reduction in the payment;
- a power of attorney (where the application is filed by a representative).

#### **Article 14. Examination of the application**

In the course of the examination of the application it shall be checked that the requisite documents are all present and that they comply with the basic requirements.

The Patent Office shall examine the application within two months following the date of receipt thereof.

The application shall not be examined to comply with the conditions set out in paragraph 2 of Article 4 of this Law.

Where the documents contained in the application do not comply with the prescribed requirements, the applicant shall be requested to furnish the corrected or missing documents within two months from the date of receipt of the invitation. If the applicant fails, within the prescribed time limit, to comply with the request or to apply for extension of the said time limit, the application shall be deemed to have been withdrawn and the applicant shall be notified accordingly.

In the event of any disagreement with the decision taken on the examination, the applicant shall have the right, within three months following the date of receipt of the decision, to appeal against that decision to the Appeal Board. The appeal shall be considered within four months following the date of receipt thereof.

The decision of the Appeal Board may be appealed by the applicant to the Court within six months from the date of its receipt.

If during examination it is found that the documents contained in the application comply with the prescribed requirements, the Patent Office shall take the decision to issue a certificate of registration of the topology and shall enter its particulars in the State Register of Topologies of Integrated Circuits (hereinafter – “Register”).

Rules of Register keeping and the content of the particulars to be entered in the Register shall be established by the Patent Office

#### **Article 15. Issue of a topology certificate**

The Patent Office shall issue a topology certificate after having entered the particulars of the topology in the Register, within one month following the date of receipt of the document attesting payment of the prescribed obligatory charges.

Where a certificate was sought in the names of several persons they shall all be issued a single certificate.

#### **Article 16. Publication of particulars of the registration**

Particulars related to the registration of the topology and entered in the Register under the provisions of Article 14 of this Law shall be published by the Patent Office in the Official Bulletin within six months after the registration of the topology in the Register. Any subsequent amendments to the particulars of the registration of the topology shall also be published.

The list of particulars to be published in the Official Bulletin shall be determined by the Patent Office.

## **CHAPTER 5**

### **EXPLOITATION OF THE TOPOLOGY AND ASSERTION OF RIGHTS IN THE TOPOLOGY**

#### **Article 17. Exploitation of the Topology**

Exploitation of the topology shall mean reproduction, usage, import, offer for sale, sale, and other introduction into civil circulation of this topology or an integrated circuit incorporating such topology.

The conditions for exploitation of the topology the rights in which belong to more than one person shall be laid down by an agreement between such persons.

In order to advertise his rights, the creator of a topology or his successor in title shall have the faculty of affixing to a protected topology or to products incorporating that topology an indication in the form of a capital letter "T", the date on which the exclusive right to exploit the topology took effect and information to identify the right holder.

#### **Article 18. Assertion of rights in a topology**

The creator (any other right holder) of a topology may request:

- recognition of his rights
- restoration of the situation existing prior to infringement of his rights and cessation of the acts that infringe his rights or that are liable to infringe them;
- compensation for losses incurred taking into account the amount of profits unlawfully gained by the infringer
- adoption, in conjunction with the defense of his rights, of other measures provided for by legislative acts.

Copies of integrated circuits that have been unlawfully manufactured and (or) of the products incorporating the integrated circuits thus manufactured, and also the materials and equipment used in their manufacture may be, in line with the procedure provided by the legislation of the Republic of Tajikistan, be confiscated, destroyed or transferred to the right holder of the topology reproduced in these integrated circuits to compensate for the losses at his request.

## **CHAPTER 6**

### **FINAL PROVISIONS**

#### **Article 19. Obligatory charges and a procedural payment**

Filing of an application, grant of a topology certificate, as well as extension and reinstatement of missed terms shall be performed with obligatory charges.

Carrying out examination, entering amendments and corrections to the application documents, publication of particulars of registration of a topology, consideration of appeals in the Appeal Board, as well as other actions related to registration of topologies shall be performed with a procedural payment payable to the Patent Office.

Obligatory charges and a procedural payment shall be paid for by the applicant, right holder, or, in agreement with them, by any natural persons or legal entities.

The procedure, amounts and time period for payment of the obligatory charges and procedural payment shall be determined by the Government of the Republic of Tajikistan.

**Article 20. Protection of the rights in a topology abroad**

The creator of a topology or any other right holder may seek legal protection of the topology abroad.

**Article 21. Rights of foreign natural persons and legal entities**

Foreign natural persons and legal entities shall enjoy those rights granted by this Law on a par with natural persons and legal entities of the Republic of Tajikistan in accordance with international treaties to which the Republic of Tajikistan is a party or on the basis of reciprocity.

**Article 22. Liability for Breaches of This Law**

Foreign natural persons and legal entities shall bear liability for the breach of this Law pursuant to legislation of the Republic of Tajikistan.

**Article 23. Procedure for entry into force of this law**

This Law shall enter into force after its official publication.

President of the Republic of Tajikistan

Dushanbe

22 December, 2006

# 218