

**THE LAW  
ON THE LEGAL PROTECTION OF TOPOGRAPHY OF SEMICONDUCTOR  
PRODUCTS**

**I INTRODUCTORY PROVISIONS**

*Subject Matter of Regulation*

Article 1

This Law shall regulate the legal protection of topography of semiconductor products.

*Definitions*

Article 2

For the purposes of this Law certain terms have following meanings:

1) competent authority means the administrative authority of the Republic of Serbia which is competent for intellectual property rights;

2) a creator of a topography is a natural person who has created topography by his own intellectual efforts;

3) a semiconductor product shall mean the final or an intermediate form of any product consisting of a body of material which includes a layer of semiconducting material and having one or more other layers composed of conducting, insulating or semiconducting material, the layers being arranged in accordance with a predetermined three-dimensional pattern and intended to perform, exclusively or together with other functions, an electronic function;

4) the topography of a semiconductor product (here and after: topography) shall mean a series of related images, however fixed or encoded representing the three-dimensional pattern of the layers of which a semiconductor product is composed and in which series, each image has the pattern or part of the pattern of a surface of the semiconductor product at any stage of its manufacture;

5) commercial exploitation of a topography means the sale, rental, leasing or any other method of commercial distribution of the topography, including its offer for any of these purposes. First commercial exploitation of confidential application shall not be considered as a commercial exploitation in the meaning of this Law

## II. SUBJECT MATTER AND TERMS OF PROTECTION

### *Subject Matter of protection*

#### Article 3

The topography shall be protected by an exclusive right in accordance with the provisions of this Act if it is the result of its creator's own intellectual effort and is not commonplace in the semiconductor industry.

Where the topography consists of elements that are commonplace in the semiconductor industry, it shall be protected only to the extent that the combination of such elements, taken as a whole, fulfils the conditions referred to in paragraph 1. of this Article.

### *Scope of protection*

#### Article 4

The exclusive rights in accordance with this law enjoy the part of the protected topography that can be used separately, as well as the device (the main thing) that includes semiconductor product contains protected topography, if such semiconductor product can not be separated from the main thing without its damage or destruction.

The exclusive rights of the topography of semiconductor products in accordance with this law shall not apply to any concept, process, system, technique of production of the topography, or any information embodied in the topography, but to the topography as such.

### *Entitlement to Protection*

#### Article 5

Right to protection shall apply in favor of natural person who is the creator of the topographies.

Where several persons have jointly created a topography, the right shall jointly apply in favor of all of them.

Where a topography is created in the course of the creator's employment, the right to protection shall apply in favor of the creator's employer unless otherwise provided by the employment contract.

On the topography created by an employee according are applied provisions the law regulating protection of inventions.

Where a topography is created under a contract other than a contract of employment, the right to protection shall apply in favor of a party to the contract by whom the topography has been commissioned, unless otherwise provided by the contract.

The right to protection shall also apply in favor of the successors in title of the persons mentioned in paragraphs 1, 2, 3 and 5 of this Article.

If two or more persons have filed an application for a protection of the joint topography, it shall be considered, unless otherwise stipulated by them, that their aliquot parts are equal.

Appropriate provisions of the law regulating obligations and proprietary right shall apply to those issues concerning the mutual legal relations between two or more titular's of rights on the joint invention, that are not provided for by this Law.

*Right to protection*  
Article 6

The right to protection shall apply in accordance with Article 5 paragraph 1 of this Law in favor of natural persons who are nationals of the Republic of Serbia or nationals of member state of the World Trade Organization (hereinafter: WTO) or who have their habitual residence on the territory of a Republic of Serbia or on the territory of a member state of the WTO.

The right to protection shall apply in accordance with Article 5 paragraph 3 and 5 of this Law in favor of:

1) natural persons who are nationals of the Republic of Serbia or nationals of member state of the World Trade Organization (hereinafter: WTO) or who have their habitual residence on the territory of the Republic of Serbia or on the territory of a member state of the WTO.

2) companies or other legal persons which have principle place of business on the territory of a Republic of Serbia or on the territory of a member state of the WTO.

Foreign natural and legal person not having their principle place of business or a habitual residence on the territory of a member state of the WTO shall, enjoy the right to protection where such treatment derives from international treaties binding the Republic of Serbia.

Article 7

Where no right to protection exists in accordance with Article 6 paragraph 2 of this Law, the right to protection shall also apply in favor of the persons who:

1) have first commercially exploited a topography on the territory of the Republic of Serbia or on the territory of a member state of the WTO which has not previously been commercially exploited anywhere in the world

2) have been exclusively authorized to commercially exploit the topography on the territory of the Republic of Serbia or on the territory of a member state of the WTO by the person entitled to dispose of the topography.

*Representation*

Article 8

In proceedings before the competent authority, a foreign natural or legal person not having their principle place of business or a habitual residence on the territory of the Republic of Serbia must be represented by a representative listed in the Register of Representatives kept by the competent authority or domestic attorney.

### III. CONTENT, LIMITATION AND DURATION OF RIGHTS

#### *Content of Rights* Article 9

The holder of exclusive rights (here and after: right holder) shall include the right to prohibit any third party without the authorization of the right holder any of the following acts:

- 1) reproduce the protected topography as a whole or its essential parts in any manner or in any form;
- 2) commercially exploit, import for those purposes the topography or the semiconductor product containing protected topography, as well as the products incorporating the semiconductor product.

#### *Limitation of Rights* Article 10

It shall not be deemed an infringement of the rights under Article 9 of this Law if:

- 1) reproduction of a topography for personal use intended for non-commercial purposes;
- 2) reproduction of a topography for the purpose of analyzing, evaluating or teaching the concepts, processes, systems or techniques embodied in the topography or the topography itself.
- 3) if any person on the basis of analysis or research of protected topography, create a topography that meets the requirements of Article 3 paragraph 1 and 2 of this Law.

#### *Exhaustion of rights* Article 11

The exhaustion of the exclusive rights to prohibit the acts specified in Article 9 of this Law shall come into effect at the moment of putting the protected topography or the semiconductor product produced by using the protected topography on the market in of the Republic of Serbia by the holder of the exclusive rights conferred by the protected topography or with his authorization.

#### *Coming into existence of exclusive rights* Article 12

Exclusive right of the right holder to prohibit the acts specified in Article 9 of this Law without his authorization, shall come into effect on the date when the topography is first commercially exploited anywhere in the world or on the date of filling an application for registration topography (here and after: application) which has been accorded a filing date, depending on which of the two dates occurs first.

*Expiry of exclusive rights*  
Article 13

The right under the Article 12 of this Law shall come to an end upon the expiry of the calendar year in which a 10 year period has lapsed from the date on which the exclusive right has come into effect.

*Marking of topography*  
Article 14

During the existence of the exclusive rights, the holder of a registered topography shall have the right to mark a semiconductor product produced by using the registered topography with a capital letter “T”.

III. TRANSFER OF RIGHTS  
Article 15

Exclusive right to topography may be, in whole or in part, subject of an assignment on the basis of an assignment contract, the status change in ownership, as well as inheritance, court and administrative decisions.

Certain or all exclusive rights to topography may be with or without restrictions transferable by the license contract.

Exclusive right to topography may be the subject of a pledge on the basis of a pledge contract, court decision and decision by other state authority.

The contracts referred to in paragraphs 1-3 of this Article are valid only if they have been drawn up in writing.

Assignment of rights, license and pledge shall be entered into the appropriate register of the competent authority.

Appropriate provisions of the law governing the legal protection of inventions shall apply to issues related to assignment, pledge and license.

IV. PROCEDURE FOR THE PROTECTION

*Common Provisions*  
Article 16

The legal protection of a topography shall be attained within the course of an administrative procedure conducted by the competent authority.

On certain issues which are not regulated by this law, especially in matters relating to the appeal, withdrawal, restitution in integrum and other issues shall apply the relevant provisions of the law governing administrative procedure.

## *Fees*

### Article 17

The administrative procedure before the competent authority shall be subject to payment of the republic administrative fees subject to submission of the proof of payment.

## *Registers*

### Article 18

The competent authority shall keep a Register of Topography Applications (here and after: Register of Applications) and a Register of Topographies.

The competent authority shall prescribe contents of registers referred to in paragraph 1 of this Article.

## *Initiation of the Procedure for the Protection of a topography*

### Article 19

The procedure for the protection of a topography shall be initiated by the filing of an application with the competent authority.

Application shall be filed in the Serbian language.

Using special technical terms in English is allowed only if those terms are used in the field of technology to which topography relates. In other cases, these terms can be used with the an explanation the Serbian language

The competent authority shall not examine whether the applicant is entitled to the protection.

A separate application shall be filed for each individual topography.

The competent authority shall prescribe the particulars of the means of filing the application.

## *Time limit for submission of application*

### Article 20

An application for the registration of a topography shall not be filed after the expiration of a period of two years as from date on which the first commercial exploitation of the topography has started anywhere in the world.

Where a topography has not been commercially exploited anywhere in the world, any exclusive rights in existence shall expire within 15 years from its first fixation or encoding, unless an application for registration in due form has been filed within that period.

*Content of the Application*  
Article 21

The application shall contain:

- 1) the request for the grant of the right to a topography;
- 2) attachments which identifying the topography;
- 3) a copy of semiconductor products manufactured according to the topography for which protection is sought, if the integrated circuit has been commercially exploited;
- 4) statement of the date of the first commercial exploitation of the topography, if that date is earlier then the filing date;
- 5) statement of entitlement to filing the application if the applicant is not the creator of the topography.

The competent authority shall prescribe the particulars of the request for the grant of the right to a topography, define the attachments to be filed with request for the grant of right and their content.

*Trade secret*  
Article 22

The applicant, when submitting the application, may indicate a part of the attachments referred to in Article 21 paragraph 1 item 2) of this Law as trade secret.

Appropriate provisions of the law governing the protection of a trade secret, shall apply to the parts of the applications as referred in paragraph 1 of this Article.

*Filing Date*  
Article 23

The competent authority shall recognize the filing date of the application that contains information about the applicant and one of the attachments identifying the topography.

*Examination of the application*  
Article 24

Upon the receipt of an application, the competent authority shall examine:

- 1) whether the application is filed within the time limit prescribed in the Article 18 of this Law;
- 2) in the case where the applicant is a foreign national, whether the application has been filed within the meaning of Article 5 of this Law;
- 3) whether a separate application has been filed for each topography for the purposes of Article 19 paragraph 5 of this Law;
- 4) whether the application contains all the data specified in the request for the grant of rights and the prescribed attachments.
- 5) whether the request for the grant of the topography and attachments submitted with the request have the required content;
- 6) whether the filling fee has been paid.

If the examination under paragraph 1 of this Article shows that the application does not comply with the provision of that paragraph, the competent authority shall set out the reasons thereof in a communication to the applicant, inviting him to correct the deficiencies within a time limit no less than two months nor more than three months.

If the applicant fails to remedy the defects referred to in paragraph 2 of this Article, the competent authority shall render a conclusion rejecting the application.

If the application for the grant of a topography meets the requirements of paragraph 1 this Article, the competent authority shall determine whether the subject matter of topography is a topography within the meaning of Article 2 paragraph 1 item 4 this Law.

If the competent authority establishes that all the requirements specified in the paragraphs 4 of this Article have been met, it shall render a decision granting the right to the topography.

If the application for the grant of the topography does not meet the requirements of paragraph 4 of this Article, the competent authority shall notify the applicant within a period which shall not be less than two months nor more than three months to correct the deficiencies specified in the invitation or to comment on the reasons for the rejection.

If the applicant fails to correct the deficiencies or fails to comment on the reasons for rejection within the specified time limit, the competent authority shall reject request for the grant of the topography.

On applicants reasoned request, the competent authority may extend the time limit under paragraph 2 and 6 of this Article, for a time period considered to be justified, but not exceeding three months.

#### *Registration, Issuing of a Certificate and Publication of the Grant of Rights* Article 25

The grant of the right to a topography shall be registered in the Register of Topographies.

After registration in the Register of Topographies, the applicant shall be issued a certificate of protected topography with the prescribed content.

The prescribed data about the right granted shall be published in the official gazette of the competent authority (hereinafter referred to as: the official gazette).

The competent authority shall prescribe the content of certificate of protected topography and type of data to be published in the official gazette.

#### *Availability of the Topography for Public Inspection* Article 26

Until the entry into the Register of Topographies, competent authority shall allow access to the application for granting topography and its copy in the presence of an official on written request of the applicant or person having its authorization.

The parts of the attachments designated as trade secret shall not be available to third parties without approval by the applicant, right holder or without a court decision.

Parts of the topography indicated as trade secret, and which are presented in graphical form should be covered, by hatching, or otherwise, on one of a copy of the representation of the topography. Only that copy shall be given to the public. On the other copies representation of the topography must be visible.

*Entry into the register changes of data*  
Article 27

Upon orderly request of the applicant or the right holder, competent authority shall enter in to the appropriate register changes of data.

The competent authority shall publish in the official gazette changes of the data entered in the appropriate register.

The competent authority shall prescribe the particulars of the request for changes data into the appropriate register, define the attachments to be filed with request, prescribe content of the attachments, as well as data which competent authority publish in the official gazette.

VI. REVOCATION ON DECISION ON GRANT TOPOGRAPHY

*Grounds for Revocation*  
Article 28

The competent authority may revoke at any time the decision to grant a topography on the request of any person, if it establishes that:

- 1) the subject matter of protection was not a topography within the meaning of Article 2 paragraph 1 item 4 of this Law
- 2) the topography did not conform to protection requirements within the meaning of Article 3 of this Law;
- 3) the application was not filed within the time limit under Article 20 of this Law;
- 4) the topography right holder is not entitled to protection within the meaning of Article 6 and 7 of this Law and/or if he did not have a representative within the meaning of Article 8 of this Law;
- 5) attachments under Article 21 of this Law do not have the prescribed content;
- 6) attachments under Article 21 paragraph 1 item 2) of this Law do not correspond to the semiconductor product enclosed with the application for the grant of protection.

The competent authority shall prescribe the content of the request for the revocation of the topography and the content of the annexes to be submitted with the request.

*Procedure upon Request for the Revocation*  
Article 29

The competent authority shall forward the admissible request and filed evidences to the right holder and invite him to submit his reply, in duplicate, within 30 days from the date of receipt of the invitation.

During the revocation proceedings, the competent authority shall invite the parties, as many times as is necessary, to file their observations on the submissions of the opposite party within 30 days.

During the revocation procedure, the competent authority shall conduct a hearing only if it assesses it to be necessary for the establishment of facts relevant for the taking of a decision on the request.

If the parties fail to appear at the hearing, the competent authority may decide on the request for revocation based on the available evidence.

Data from the decision on revocation topography shall be published in the official gazette.

The competent authority shall prescribe the particulars of data to be published in the official gazette of the competent authority.

#### Article 30

Decision to revoke the topography shall not produce any effect on court decisions relating to establishing infringement of rights, which were legally binding at the moment of the adoption of the above decision, nor on assignment and licensing agreements that have been entered into if, and to the extent that, such agreements have been executed, provided the plaintiff or right holder have acted in good faith.

### V. SECRET APPLICATION

#### Article 31

An application of topography filled by a national of Republic of Serbia which is found to be important for the defense or security of the Republic of Serbia is considered to be secret application.

Appropriate provisions of the law governing the legal protection of inventions shall apply to issues related to secret application.

### VI. PROTECTION OF RIGHTS UNDER CIVIL LAW

#### Article 32

Any unauthorized action referred to in Article 9 of this law shall be considered a infringement of the rights of the topography.

A person who, when he acquires a semiconductor product, does not know, or has no reasonable grounds to believe, that the product is protected by an exclusive right shall not be prevented from commercially exploiting that product.

On the demand of the right holder a tribunal may require for acts committed after person referred to in paragraph 2 of this article knows, or has reasonable grounds to believe that the semiconductor product is protected the payment of remuneration for commercial exploitation.

The provisions of paragraph 2 and 3 of this Article shall apply to the successors in title of the person persons who acquired the semiconductor product to which exclusive rights are recognized.

Amount of the compensation, which belongs to the right holder determines amount of license remuneration he would usually receive for the exploitation of the invention.

If the right holder prove that another person has fraudulently reproduced or commercially exploited or imported for that purpose a topography, or semiconductor products that contain protected topography or product which contains such a semiconductor product, before the date specified in Article 12 this Law, the court shall commit that person to pay compensation to the right holder under paragraph 5 this Article.

Appropriate provisions civil law protection stipulates in the law governing the legal protection of inventions shall apply on the civil law protection of topography.

## VII. PENAL PROVISIONS

### *Corporate offence*

#### Article 33

A company or another legal person who has infringed a topography or the right arising from an application in the manner referred to in Art. 32. of this Law shall be sanctioned on grounds of corporate offence with a fine of between RSD 100,000 and 3,000,000.

The responsible person in a company or another legal person shall be sanctioned for the acts under paragraph 1 of this Article on grounds of corporate offence with a fine of between RSD 50,000 and 200,000.

The precautionary measures and the publication of judgment ordaining a sanction against the perpetrator on grounds of the corporate offence under paragraph 1 of this Article may be ordered in accordance with the Law on corporate offence.

### *Misdemeanors*

#### Article 34

An entrepreneur who has infringed a topography or the right arising from an application in the manner referred to in Article 32. of this Law shall be sanctioned on grounds of misdemeanor with a fine of between RSD 50,000 and 500,000.

A natural person shall be sanctioned for the acts under paragraph 1 of this Article with a fine of between RSD 10,000 and 50,000.

The precautionary measures and the publication of judgment ordaining a sanction against the perpetrator on grounds of the misdemeanors under Paragraph 1 of this Article may be ordered in accordance with the Law on misdemeanors.

The court that issued the judgment on grounds of the misdemeanors under Paragraph 1 of this Article, in compliance with special regulations, will determine whether the seized items shall be destroyed, sold or handed over to the interested authority or organization.

## Article 35

A legal person who acts as representative in the exercising of the rights under this Law without having a power of attorney shall be sanctioned on grounds of the misdemeanor with a fine of between RSD 100,000 and 1,000,000.

The natural person or responsible person in a legal person shall be sanctioned on grounds of the misdemeanor for the acts under paragraph 1 of this Article with a fine of between RSD 10,000 and 50,000.

## IX. TRANSITIONAL AND FINAL PROVISIONS

### Article 36

The Register of Applications and the Register of Topographies, specified by the Law on the Protection of Topographies of Integrated Circuits („Official Gazette of the Republic of Serbia”, No 104/09), shall continue to be maintained pursuant to this Law.

The registered topographies valid on the date of this Law entering into force shall remain in effect and they shall be subject to the provisions of this Law.

The provisions of this Law shall also apply to applications submitted by the date of this Law, taking effect in respect of which administrative proceedings have not been finalized, as well as to other proceedings instituted in respect of topographies that remain pending on the date of this Law taking effect.

### Article 37

Bylaws for the enforcement of this Law shall be adopted within four months from the date of entering into force of this Law.

Until the adoption of the bylaws referred to in paragraph 1 of this Article, bylaws adopted on the basis of the Law on the Protection of Topographies of Integrated Circuits („Official Gazette of the Republic of Serbia”, No 104/09), shall apply except for the provisions contrary to this Law.

### Article 38

On the date of this Law entering into force shall cease the validity of the Law on the Protection of Topographies of Integrated Circuits („Official Gazette of the Republic of Serbia”, No 104/09).

### Article 39

This Law shall enter into force on the eighth day from the date of its publication in the “Official Gazette of the Republic of Serbia”