

## The Law of Ukraine

### On amending certain legislative acts of Ukraine to improve protection of rights to topographies of semiconductor products

The Verkhovna Rada of Ukraine **decrees:**

I. To amend the following legislative acts of Ukraine:

1. Civil Code of Ukraine (Bulletin of the Verkhovna Rada of Ukraine, 2003, №№ 40-44, p. 356):

1) Paragraph nine of the part one of the Article 420 shall be laid out in the following wording:

“topographies of semiconductor products”;

2) in the name and in the text of chapter 40 words “integrated microcircuits” replace by wording “semiconductor products”;

3) in the second part of article 472 words “depictions” and “carrier” replace by wordings “set of related depictions” and “carrier”

4) the second part of article 475 should be laid out in the following wordings:

"2. The validity period of exclusive intellectual property rights to topographies of a semiconductor product expires in ten years after the earliest of the following dates:

expiration of the calendar year in which the topographies was first used commercially anywhere in the world;

expiration of the calendar year in which a duly completed application for state registration was filed.

2. In the Law of Ukraine “*On the Protection of Rights to Integrated Microcircuit Topographies?*” Bulletin of the Verkhovna Rada of Ukraine 1998, № 8, art. 28 with following replacements):

1) The name, preamble and the Article 1 shall be laid out in the following wordings:

“On the protection of rights to topographies of semiconductor products”;

This Law regulates relationships arising in connection with the accrual and dispensation of rights to topography of semiconductor products in Ukraine.

#### **Article 1.** Definition of terms

For the purposes of this Law, the terms mentioned below are used with the following meanings:

1) Author — an individual whose intellectual or creative work created a topography;

2) Appellate Chamber — the Institution’s collegiate body reviewing objections to the Institution’s decisions regarding accrual of rights to intellectual property and other matters included by this Law to the scope of its competence;

3) Bulletin — the Institution’s official electronic bulletin;

- 4) topography's first use date — a date when the use of a topography became known in microelectronics industry;
  - 5) state system for legal protection of intellectual property — the Institution and the set of expert, research, educational, information and other appropriately specialized public establishments falling within the scope of the Institution's administration;
  - 6) expertise establishment — a public establishment (enterprise, organization) authorized by the Institution to review and examine applications;
  - 7) registered topography — a topography filed in the Register and having a certificate issued for it;
  - 8) application— a package of documents required for registration of a topography and issuance of a certificate;
  - 9) applicant — a person filing an application for registration of a topography or otherwise accruing the rights of an applicant according to the procedure provided by law;
  - 10) commercial use: sale, rental, lease or any other method of commercial dissemination or offer for these purposes;
  - 11) topography of a semiconductor product (topography): a set of related images, fixed or coded in a certain way and representing a three-dimensional configuration of layers from which a semiconductor product consists and in which every image contains a configuration or part of configuration of a semiconductor product at any stage of its manufacture;
  - 12) semiconductor product: the final or interim form of any device, consisting of the material base that includes a layer of semiconducting material, has one or more layers consisting of conducting, insulating or semiconducting material and placed one against another according to a designated three-dimensional model, and intended for operation, exclusively or in combination with other functions, as an electronic circuit;
  - 13) register — the electronic State Register of Semiconductor Product Topographies of Ukraine;
  - 14) employer: a person hiring an employee under employment contract;
  - 15) person — natural or legal person;
  - 16) certificate — a document confirming registration by the Institution of a topography and certifying the authorship of and rights to the same topography;
  - 17) Institution — the central body of executive power responsible for implementation of the national policy on intellectual property.
- 2) part 3 of the paragraph 1 of the article 2 shall be laid out in such wordings:  
“issues and facilitates state registration of certificates to c topographies”;
- 3) article 2<sup>1</sup> shall be supplemented with wordings:
- Article 2<sup>1</sup>.** International treaties

Unless an international treaty of Ukraine ratified by the Verkhovna Rada of Ukraine sets out rules different from rules provided by the Ukrainian Law on topography of semiconductor products, the rules of international treaties shall apply.

4) **Article 3** shall be laid out in such wordings:

“Article 3. Rights and duties of foreign and other persons

1. Under international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine, foreign and stateless persons have equal rights provided by this Law with Ukrainian persons.

2. Foreign and other persons permanently residing or permanently staying outside Ukraine shall exercise their rights in the relationship with the Institution via representatives for intellectual property affairs (patent attorneys) registered according to a provision approved by the central body of executive power responsible for formation of the national policy on intellectual property”;

5) the name of Section shall be laid out in such wording:

## Section II

Legal protection of semiconductor product topographies;

6) **in Article 4:**

The wordings “IMC topography” is excluded;

Para 3 shall be laid out in such wording :

3. The accrual of rights to a topography is certified by a certificate. A certificate is valid during ten years from the earliest of the following dates:

Expiration of the calendar year in which the topography was first used commercially anywhere in the world;

Expiration of the calendar year in which a duly completed application for state registration was filed.

Registration may be terminated early in the event of invalidation of this registration in accordance with Article 20 of this Law.

In para 4 word “depiction” shall be replaced by wordings the “set of related depictions”;

7) **in the Article 5:**

Para 2 shall be laid out in such wordings:

"2. A topography is considered original, if it was not created by direct reproduction (copying) of another topography and was not known to microelectronics industry prior to the date of filing application with the Institution or the date of its first use";

In the first sentence of the para 4 words “IMC topography” replace by the word “topography”;

Para 5 shall be laid out in such wordings:

"5. A topography for which a registration application was filed with the Institution more than two years after the date of its first use cannot be considered original ";

8) **in the Article 6:**

In para 1 wordings: “The IMC topography registration right belongs to the author or the author’s successor” replace by wordings “ Unless otherwise provided by this Law, the topography registration right belongs to the author or the author’s successor”;

Para 4 shall be laid out in such wordings:

“4. If an agreement on topography of authors is revised, the Institution, based on the joint request by persons stated in the application as the authors and authors not mentioned in the application as such, will amend the relevant documents according to the procedure provided by the central body of executive power responsible for formation of the national policy on intellectual property”;

**9) in the Article 7:**

In para 1 words “or employer’s successor ”exclude;

In para 2:

If the employer does not file an application with the Institution or does not classify the topography as confidential information (in which case, the employer is required to notify the author in writing about it) within four months after receiving the author’s written notice, the topography registration right shall pass to the author;

**11) in the Article 9:**

Para 1 supplement with the wordings:

“An application may be filed in paper or electronic form at the applicant’s choice.

Electronic applications are processed in accordance with the law regulating electronic documents and electronic document flow, this Law and the rules set by the central body of executive power responsible for formation of the national policy on intellectual property. Electronic applications may be filed upon identification of the applicant (applicant’s representative for intellectual property affairs or other authorized representative) using an electronic digital signature;”

Para 6 shall be laid out in such wordings:

“6. In order to identify a topography which was used prior to the application filing date, semiconductor product samples containing this topography in the form it was used in must be submitted to the Institution along with the application. In that case, an application must also contain the date when a topography was first used, and the materials include key technical characteristics of a semiconductor product sample”;

In para 8 words “IMC samples” replace by “semiconductor product samples”;

Para 10 shall be laid out in such wordings:

“10. Applications must be completed and filed according to the rules set by the central body of executive power responsible for formation of the national policy on intellectual property”;

In the second sentence of the Para 11 wordings “The Institution must receive a fee payment receipt together with the application or within” replace by wordings “This fee must be paid before expiration”;

**12) in the Article 11:**

In the Para 5 wordings “an IMC topography” replace by the “semiconductor product topography”;

Part 3 of the Para 6 shall be laid out as:

“An applicant shall submit additional materials within two months after receiving an expertise establishment’s notice or conclusion or copies of materials contradicting the application. If the applicant fails to submit additional materials by the required deadline, his application shall be considered withdrawn and the relevant notice will be served to the applicant. The deadline for submission of additional materials may be extended for up to six months, if a relevant request was filed before expiration of that period and the applicable filing fee paid. If the deadline for submission of additional materials is missed for valid reasons, the applicant’s rights concerning

application shall be restored, if a relevant request along with additional materials was submitted within six months after expiration of that period and the applicable filing fee paid”;

In part 5 Para 7 wordings “a document confirming payment” replace with wordings “the fee paid”;

In para 8 wordings “a document confirming payment of the application filing fee is available” replace with wordings “the fee paid for application filing is conformant with the applicable requirements”;

In the first part of the Para 11 wordings “document confirming payment” replace with words “the fee paid”;

In the first sentence of the para 12 words “IMC samples” replace by words “semiconductor product samples”;

### 13) in the Article 12:

Para 1 and 2 shall be laid out in such wordings:

“1. After a topography registration application is approved, the Institution registers the topography by filing relevant information in the Register.

The Register keeping procedure and information filed therein are determined by the central body of executive power responsible for formation of the national policy on intellectual property.

2. State registration of a topography is filed upon availability of a document confirming payment of the state duty for registration of a semiconductor product topography and the paid fee for publication of a topography registration notice. The aforementioned duty and fee are payable after the applicant receives a notice approving registration of a topography.

If an expertise establishment does not receive a document confirming payment of the state duty for registration of a semiconductor product topography and the fee for publication of a topography registration notice in the amount and according to the procedure required by law within three months after the applicant received a notice approving registration of a topography, the application shall be considered withdrawn.

The deadline for submission of a document confirming payment of the state duty for registration of a semiconductor product topography and payment of the fee for publication of a topography registration notice may be extended for up to six months, if a relevant request was filed before expiration of that period and the applicable filing fee paid. If the deadline for submission of a document confirming payment of the state duty for registration of a semiconductor product topography and payment of the fee for publication of a topography registration notice is missed for valid reasons, the applicant’s rights concerning application shall be restored, if a relevant request along with a document confirming payment of the state duty for registration of a semiconductor product topography was submitted within six months after expiration of that period and the applicable filing fee and the fee for publication of a topography registration notice paid”;

In para 4:

Second sentence to be excluded;

And para shall be supplemented with the third part with such wordings:

“A fee is charged for filing a request for correction of errors or for making any of the aforementioned changes, if an error is not obvious or technical and the change has occurred due to circumstances within the applicant’s control”;

14) in the para 1 of the **Article 13** words “official bulletin” replace with words “Bulletin”;

15) in the **Article 15:**

Para 2 is to be excluded;

In the part 3 words “registration of an IMC topography” replace with words “registration of a semiconductor product topography”;

Part 2 of the para 7 after words “fully or partially” supplement with words “due to breach of the expertise procedure”;

Part 8 is excluded;

Supplemented with para 10 with the following wording:

“10. The Appellate Chamber’s decisions enter into force as of the date of their approval by an order of the Institution, and require publication in full on the Institution’s official website”;

16) in the **Article 16:**

In the para 1 words “The rights following from registration of an IMC topography enter into force on the date of filing information regarding an IMC topography in the Register” replace with words “The rights following from registration of a topography enter into force on the date following the date of its state registration”;

In para 2 delete the word “exclusive”;

In para 3:

In the part 1 the word “right” replace with words “exclusive right”;

In the part 2 the word “ using” replace with words “commercially using or importing for that purpose the topography”;

Part seven shall be laid out in such wording:

“manufacturing semiconductor products using this topography”;

Part 11 shall be laid out in such wordings:

“A semiconductor product is considered manufactured using a registered topography, if all elements defining the topography as original have been used to manufacture it”;

In para 4

The words “official bulletin” replace with the words “Bulletin”;

17) **in the Article 17:**

Para 1 shall be supplemented with wordings:

“Reproducing topography for the purposes of analysis, evaluation or study of concepts, processes, systems or methods embodied in a topography, or the topography itself”;

In para 2:

In part 2 words: “An IMC with registered topography and products containing these IMCs” replace with words “;A semiconductor product with registered topography and products containing these semiconductor products”;

In para 3:

First sentence shall be laid out is such wordings: 3. The use of a semiconductor product by any person who purchased a semiconductor product but did not and could not know that this semiconductor product or a device containing it has been manufactured and marketed by infringing the rights provided by registration of a topography is not considered infringement of rights provided by registration of a topography”;

In the second sentence the word “IMC” replace with words “semiconductor product”;

In para 4:

In the first part words “the previous usage of the right to this IMC topography” replace with words “the previous user’s right to this topography”;

Article shall be supplemented with para 5 by following wordings:

“5. The use of another topography conformant with Article 5 (2) and (3) of this Law and created as a result of analysis, evaluation or study of concepts, processes, systems or methods embodied in a registered topography is not considered infringement of rights provided by registration of a topography”;

**18) Article 18:**

In para 1 the word “exclusive” deleted;

19) in para 3 of the Article 20 words “ its official bulletin” replace with word “Bulletin”;

20) part 2 of the Article 23 shall be laid out in such wordings:

“Revenues from the state duty for registration of semiconductor product topographies shall be remitted to budgets according to the procedure provided by the Budget Code of Ukraine”;

**II. Final and transitional provisions**

1. This Law enters into force on the next day of its publication.
2. Prior to bringing the normative-legal acts adopted before the entry into force of this Law, they shall act in accordance with this Law in a part that does not contravene this Law
3. . Examination of applications for registration topographies of integrated circuits obtained by a central executive body implementing state policy in the field of intellectual property, prior to the entry into force of this Law, which is not completed at the time of entry into force of this Law, shall be conducted in accordance with the procedure established by this Law.
4. Certificates issued on applications received by the central executive body implementing state policy in the field of intellectual property prior to the entry into force of this Law are valid.
5. The Cabinet of the Ministers of Ukraine shall, within six months from the day this Law enters into force:
  - brings its normative legal acts in compliance with this Law;
  - ensures Central Executive Bodies bring their legal acts into compliance with this Law.

<b>President of Ukraine</b>	<b>V. ZELENSKYY</b>
<b>Kyiv September 19<sup>th</sup>, 2019 № 111-IX</b>	