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If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima* [1] has adopted and
the President has proclaimed the following law:

Law on the Protection of Topographies of Semiconductor Products

Chapter I
General Provisions

Section 1. Terms Used in the Law

The following terms are used in the Law:

1) **semiconductor product -** any final or intermediate product for the performance of electronic functions or electronic and other functions that consists of the base material containing a layer of semiconductor material and of another layer or several other layers consisting of a conductor, an insulator, or a semiconductor and arranged according to a pre-determined three-dimensional structure;

2) **topography -** a set of consecutive images either open or encrypted in any form which reflects the three-dimensional structure of layers comprising the semiconductor product and in which each image shows the surface structure of the semiconductor product or part of the surface structure thereof at various stages of production;

3) **commercial use of a topography -** sale, lease, or any other commercial distribution or marketing, and also offer for the respective purposes;

4) **owner of a topography -** a creator of a topography of a semiconductor product or a successor thereof, or any other natural or legal person who has the exclusive right to the topography.

[*19 November 2015*]

Section 2. Protected Topographies

(1) A topography shall be protected in the Republic of Latvia if it corresponds to the provisions of this Law and has been registered with the Patent Office of the Republic of Latvia (hereinafter - the Patent Office).

(2) A topography shall be protected if it is a result of the intellectual work of a relevant creator of the topography and is not generally known in the production of semiconductor products. The topography shall be considered a result of the

intellectual work of the creator thereof, unless the contrary is proved.

(3) A topography which includes elements that are generally known in the production of semiconductor products shall be protected if the conjunction of generally known elements corresponds overall to the provisions of Paragraph two of this Section.

(4) Legal protection of a topography shall not refer to the principles, processes, systems, and techniques that are directly or indirectly related to the creation and production of the topography, and also to the coded information used in the topography.

(5) Additional regulation of legal relationships for the procedures of the Patent Office in respect of granting a topography, operation of the Industrial Property Board of Appeal, representation of persons in the Patent Office, and activity of professional patent attorneys shall be determined by the Law on Industrial Property Institutions and Procedures.

[*19 November 2015*]

Section 3. Holders of Exclusive Rights

(1) The exclusive right to a topography shall be held by a creator thereof but where a topography has been created by several persons together - by all creators thereof.

(2) If a topography has been created while performing an employment contract which provides for the creation of topographies, the exclusive right to the topography may be held by an employer if so stipulated in a collective agreement or an individual contract of employment.

(3) If a topography has been created while performing a work-performance contract, the exclusive right to the topography may be held by a commissioning party if so stipulated in the contract.

(4) If in accordance with the provisions of Paragraphs two and three of this Section a creator of topography does not have the exclusive right thereto, the creator has the right to request that he or she is referred to as the creator of the topography in all documents and publications related to registration of the topography.

(5) If the exclusive right to a topography is not held by any of the persons referred to in Paragraph one, two, or three of this Section, it may be held by a person who has been the first to commence commercial use of the topography if no other person has used it in Latvia or abroad.

(6) The exclusive right to a topography may be held by successors of the persons referred to in Paragraphs one, two, three, and five of this Section.

(7) If the exclusive right to a topography is held by several persons, mutual relationship thereof shall be determined by a contract entered into between owners of the topography. If such contract has not been entered into, the provisions of the Civil Law which refer to the joint property of movable property shall be applied.

Chapter II
Registration of a Topography

Section 4. Filing of an Application for the Registration of a Topography

(1) An application for the registration of a topography (hereinafter - the application) may be filed with the Patent Office by any natural or legal person referred to in Section 3 of this Law (hereinafter - the applicant) if:

1) its permanent place of residence is Latvia or it owns an enterprise situated in the territory of Latvia;

2) its permanent place of residence or its company is located in a country with which Latvia has entered into a bilateral or multilateral contract for the protection of a topography of semiconductor products;

3) its permanent place of residence or its company is located in a country the natural or legal persons of which are granted the national regime in the Republic of Latvia on the basis of a mutual agreement and the laws of which provide natural and legal persons of the Republic of Latvia with the protection of a topography of semiconductor products which, in essence, corresponds to the provisions of this Law.

(2) The applicant is entitled to request registration of a topography until it is proved that the applicant does not have the right to do it.

(3) The application may be filed prior to the first commercial use of a topography or within two years from the day when the first commercial use of the topography has been commenced in Latvia or any other country. If the application has not been filed within two years from the day of the first commercial use of the topography, it shall be considered that the exclusive rights to the topography referred to in Section 3 of this Law have not become valid over this period of time and they cannot be obtained.

(4) If a topography has not been used commercially, the applicant has the right to file with the Patent Office an application within 15 years counting from the year which follows the year when the topography was created.

Section 5. Application

(1) The application shall include the following:

1) a submission regarding registration of the topography;

2) a short description of the topography;

3) materials which clearly and explicitly identify the topography and elements thereof and are valid for reproduction:

a) drawings or photographies showing configuration of layers of the semiconductor product;

b) drawings or photographies of the masks or parts thereof which are used in the production of semiconductor products;

c) drawings or photographies of individual layers of the semiconductor product;

4) documents confirming the date of the first commercial use of the topography (if the use of the topography has been commenced prior to filing the application). If a person other than the applicant has commenced the first commercial use of the topography, the applicant shall indicate the legal relationship between the applicant and this person in respect of the topography;

5) [19 November 2015];

6) a power of attorney if the application is filed through an authorised person.

(2) In order to ensure better identification of the topography, the applicant may additionally submit the following:

1) one or more samples of the topography. The applicant shall pay a fee for the submission and storage of the samples of the topography;

2) magnetic tapes, computer print-outs, microfilms or any other means (sources) for storing data (information) on which the topography is stored in encrypted form;

3) a document confirming payment of the application fee.

(3) The applicant shall file the application and the short description of the topography in the Latvian language. Other documents and materials referred to in Paragraphs one and two of this Section may also be submitted in the English, French, Russian, or German language. If the document confirming the date of the first commercial use of the topography abroad is in another language, the applicant shall concurrently with the original document also submit a certified translation thereof in one of the respective languages.

(4) In the event of a dispute, the applicant (owner of a topography) shall, at the request of the Industrial Property Board of Appeal or court, submit a translation of the document referred to in Paragraph one or two of this Section in the Latvian language.

(5) In submitting the documents and materials referred to in Paragraph one, Clause 3 and Paragraph two of this Section, the applicant may indicate in a written request the component which contains a trade secret related to the production of the topography that the Patent Office, the Industrial Property Board of Appeal, or court may not disclose. Persons concerned who are parties to a dispute regarding validity of the exclusive rights or infringement of such rights may have exceptional access to the respective documents and materials, at the request of the Industrial Property Board of Appeal or court.

(6) [19 November 2015]

[*19 November 2015*]

Section 6. Date of Filing the Application

(1) The date when the Patent Office has received the documents and materials referred to in Section 5, Paragraph one, Clauses 1, 2, and 3 of this Law shall be considered the date of filing the application (hereinafter - the filing date).

(2) If the requirements laid down in Paragraph one of this Section have not been complied with, the Patent Office shall notify the applicant regarding this by setting a time period for the elimination of the identified deficiencies. In this case, the date when the Patent Office has received all documents and materials referred to in Paragraph one of this Section shall be considered the filing date. If the applicant has failed to comply with the requirements of the Patent Office within the specified time period, the application shall be considered not filed, and the applicant shall be notified regarding this in writing.

(3) The Patent Office shall, at the request of the applicant, send to the applicant a certified copy of its application indicating the filing date and the number of the application within 30 days from the filing date.

(4) Application documents and materials that do not affect determination of the filing date may be submitted by the applicant concurrently with the documents and materials referred to in Paragraph one of this Section but not later than within three months from the filing date. The application fee shall be paid within a month from the date of filing the application. If the respective documents and materials have not been submitted or the application fee has not been paid within the specified time period, the application shall be considered not filed.

[*19 November 2015*]

Section 7. Examination of the Application

(1) The Patent Office shall, within three months from the filing date, verify whether the filed application corresponds to the provisions of Section 4, Paragraphs one, three, and four, Section 5, Paragraphs one and three of this Law, and also to the formal requirements of the Patent Office for the presentation of application documents and materials.

(2) If the application corresponds to the specified requirements, the Patent Office shall take a decision to register the topography with the State Register of Topographies of Semiconductor Products and publish the relevant notification.

(3) If the application does not correspond to the specified requirements or corresponds to them only partly, the Patent Office shall notify the applicant of this fact by setting a three-month period for the elimination of the identified deficiencies.

(4) The Patent Office shall take the decision to reject the application if the applicant has failed to eliminate the deficiencies identified by the Patent Office within the specified time period.

Section 8. Registration of a Topography

(1) The Patent Office shall register a topography with the Register of Topographies of Semiconductor Products and publish information on the topography in its official publication, and also issue to the applicant, following payment of the fee, a topography registration certificate according to a specific model as soon as possible after taking a positive decision.

(2) If the application is filed prior to the first commercial use of the topography, the applicant has the right to request that publication of information on the registration of the topography is postponed until the first commercial use of the topography but not later than one year from the day of registration of the topography.

(3) After publication of information on the registration of the topography, every person has the right to access application documents and materials at the Patent Office.

(4) The provisions of Paragraph three of this Section shall not be applicable to the components of application which the applicant considers to be a trade secret and regarding non-disclosure of which the applicant has already submitted a written request to the Patent Office before in accordance with Section 5, Paragraph five of this Law.

[*19 November 2015*]

Section 9. Notice of Appeal against a Decision of the Patent Office

If the applicant or another addressee of a decision of the Patent Office (owner, former owner, successor of property rights, licensee of the topography) completely or partly disagrees with the decision taken by the Patent Office, he or she is entitled to submit a notice of appeal in accordance with the Law on Industrial Property Institutions and Procedures.

[*19 November 2015*]

Section 10. Notice of Opposition to the Registration of a Topography

(1) Persons concerned may submit to the Patent Office a notice of opposition to the registration of a topography within six months after publication of the topography. The submission, progress, and examination of the notice of opposition shall take place in accordance with the Law on Industrial Property Institutions and Procedures.

(2) A notice of opposition to the registration of a topography may be submitted on the basis of the provisions of Section 15, Paragraph two of this Law.

[*19 November 2015*]

Chapter III
Rights Arising from the Registration of a Topography

Section 11. Content and Nature of Exclusive Rights

(1) A person in whose name a topography has been registered has the exclusive right to:

1) reproduce the topography fully or partly in any manner and form;

2) use the topography in a semiconductor product in any manner and form;

3) use the topography or a semiconductor product in which it has been used in a commercial manner, and also produce, offer for sale, distribute, import from abroad, and store them for the respective purposes.

(2) It shall be prohibited for other persons to carry out any of the activities referred to in Paragraph one of this Section without the authorisation of the owner of a topography.

(3) The owner of a topography may fully or partly transfer his or her rights to the topography to any other person.

(4) Any topography protected in accordance with the provisions of this Law, and also the relevant exclusive rights shall, in terms of the legal regime, be comparable to movable property, and the provisions of the Patent Law regarding licences, licensing agreements, and any other transactions related to the exclusive rights, and also general provisions of the Civil Law regarding movable property and property transactions shall be applied thereto, unless otherwise provided in this Law.

(5) If a registered topography has not been used in Latvia or is used to the extent which does not objectively satisfy the national interests of Latvia, and the owner of a topography refuses to grant a license to a person concerned, a court may, at the request of this person, grant a permit (compulsory licence) to him or her to use the registered topography. The compulsory licence may be granted at any moment starting from the day of registration of the topography in accordance with the relevant provisions of the Patent Law.

(6) Any transaction related to a registered topography shall be registered with the Patent Office. Otherwise the transaction shall be declared invalid.

(7) A topography registered with the Patent Office shall be pledged in accordance with the provisions of the Commercial Pledge Law. A person concerned shall pay a fee for making a commercial pledge entry in the Register of Topographies of Semiconductor Products. The Patent Office shall record a commercial pledge entry in the Register of Topographies of Semiconductor Products on the basis of a notification of the holder of the register of commercial pledges. Information on the entry made shall be notified to the owner of a topography and published in the official publication of the Patent Office.

[*3 July 2014; 19 November 2015*]

Section 12. Validity of Exclusive Rights

(1) The exclusive right to a topography shall become valid on the day when its first commercial use has been commenced in Latvia or any other country or on the day of receipt of the application, whichever is earlier.

(2) The exclusive right to a topography may not be acquired if the relevant application has not been filed with the Patent Office or the use of the topography has not been commenced within 15 years counting from the year which follows the year when the topography was created.

(3) The exclusive right to a topography shall be valid for 10 years counting from the year which follows the year when the application was filed or the use of the topography was commenced, provided that the application has been filed within two years from the start date of the first commercial use of the topography, whichever is earlier.

Section 13. Restrictions on Exclusive Rights

(1) It shall not be considered an infringement of the exclusive right of the owner of a topography specified in Section 11, Paragraphs one and two of this Law if the topography or topography used in a semiconductor product is used as follows:

1) for private non-commercial purposes;

2) for a scientific experiment or research purposes;

3) for training purposes;

4) for an analysis or assessment of the topography or related (used therein) principles, methods, systems, techniques.

(2) The provisions of Section 11, Paragraphs one and two of this Law regarding the exclusive right of the owner of a topography shall not apply also to any improved topography which has been created by carrying out scientific research, analysis, or evaluation of an already known topography which is owned by another person. The newly created topography shall be registered and protected if the characteristics thereof correspond overall to the provisions of Section 2 of this Law.

(3) The owner of a topography may not prohibit other persons from using commercially the topography owned by him or her or a semiconductor product containing it in the products produced by such persons if the owner of a topography or another person with his or her consent has marketed the topography or the semiconductor product containing it in the European Economic Area.

(4) Commercial use of a topography or a semiconductor product in which this topography has been used shall not be considered an infringement of the exclusive rights if a person who uses it independently and in good faith (hereinafter - the user) or a successor of this person was not and could not be aware of the existence of the exclusive rights. In this case, the use of the topography or the relevant semiconductor product may be continued also after the user has become or should have become aware of the existence of the exclusive rights, provided, however, that consent of the owner of a topography has been obtained (on the basis of a licensing agreement) and he or she has received a fair compensation. Disputes between the owner of a topography and the user shall be resolved by a court.

[*15 February 2007*]

Section 14. Early Cancellation of the Registration of a Topography

(1) The Patent Office shall cancel the registration of a topography early at the request of the owner of a topography. Registration shall be cancelled from the day indicated in a submission.

(2) If the right to a topography is held by several persons or has been transferred to third parties, registration may only be cancelled with the consent of all owners of the topography.

Section 15. Invalidation of the Registration of a Topography

(1) Any person concerned may lodge a statement of claim for the invalidation of the registration of a topography with a city of Vidzeme Suburb Court of Riga City during the entire validity of the registration of topography in accordance with the procedures for lodging a claim laid down in the law.

(2) The registration of a topography may be declared invalid in the following cases:

1) the subject-matter (object) of the registration does not correspond to the definition of a semiconductor product and a topography referred to in Section 1 of this Law, and also to the basic provisions for the protection of topographies specified in Section 2;

2) the mandatory application documents and materials (Section 5, Paragraph one, Clauses 1 and 2 and Clause 3, Sub-clause "a") wrongly identify wholly or in part the topography or reflects the nature thereof so vaguely that it is impossible to unambiguously identify the topography when compared with other application documents and materials (Section 5, Paragraph two);

3) the topography has been registered in the name of a person who did not have the right to request it (Section 3, Paragraphs one, two, three, five, and six and Section 4, Paragraph one);

4) the topography has been registered in breach of the provisions of Section 4, Paragraphs three and four of this Law regarding time periods for filing the application;

5) the document which confirms the date of the first use of the topography (Section 5, Paragraph one, Clause 4) is incorrect, and incorrect indication of the date affects the applicant's right to file the application for registration (Section 4, Paragraphs three and four) or validity of the exclusive right (Section 12).

[*11 December 2014*]

Chapter IV
Protection of the Rights of the Creator and Owner of a Topography

Section 16. Reinstatement of Rights

(1) Any person who corresponds to the provisions of Section 4, Paragraph one of this Law and who has proof that he or she holds the right to a topography may lodge a claim with a court asking that the right to the application or registration of a topography be transferred to him or her if the relevant application has been filed by another person who did not have such right or if the registration has already been performed on behalf of this person.

(2) The right referred to in Paragraph one of this Section shall be exercised not later than within two years from the day of registration of the topography.

(3) The Patent Office shall, on the basis of a court judgement, make the necessary amendments to the State Register of Topographies of Semiconductor Products and other documents related to the registration of the topography.

(4) The creator of a topography, if he or she is not the owner of a topography, has the right to defend his or her rights before a court in accordance with the same procedures as those laid down in the provisions of the Patent Law regarding the protection of the rights of an inventor.

[*19 November 2015*]

Section 17. Protection of Exclusive Rights

(1) The owner of a topography and - with his or her consent - also a holder of an exclusive license have the right to label the topography, a semiconductor product or packaging thereof with a designation which warns of the registration of the topography and exclusive rights and which may include one or more of the following elements:

1) the letter "T" surrounded by a circle;

2) the start date of first commercial use of the topography;

3) the surname (name) or mark of the owner of a topography.

(2) The warning mark shall be recognised as proof that the topography has been registered or applied for registration or that the owner of a topography intends to register it within the time period specified in Section 4 of this Law.

(3) The warning mark may not be placed on products if the application for the registration of the relevant topography has not been filed within the time period specified in Section 4 of this Law, and also if the application has

been rejected. Otherwise the provisions of the existing laws and other regulations regarding unfair competition shall be applied.

(4) The owner of a topography or holder of an exclusive license has the right to send to third parties, who eventually use or intend to use the topography or semiconductor product in which it is used, a notification regarding filing of the relevant application or registration of the topography.

(5) The owner of a topography has the right to lodge a claim with a court in respect of an infringement of the exclusive right starting from the day of registration of the topography. The holder of the exclusive license has the same right.

Chapter V
Liability for Infringements of Exclusive Rights

Section 18. Concept of an Infringement of Exclusive Rights

(1) Any of the activities referred to in Section 11, Paragraph two of this Law shall be recognised as an infringement of exclusive rights if it has occurred during validity of registration of the topography and has been committed without the authorisation of the owner of a topography or other legal grounds. An activity shall be recognised as an infringement if the object thereof is a topography as a whole or an integral part thereof.

(2) An activity carried out after the owner of a topography or holder of an exclusive licence has informed the infringer regarding filing of a relevant application or registration of the topography shall be recognised as a deliberate infringement, and also in cases where the object of the dispute bears a warning mark (Section 17, Paragraphs one and four).

(3) Any person shall be considered an infringer and shall be liable for an infringement of exclusive rights also if the activities indicated in Section 11, Paragraph two of this Law have been carried out through third parties.

Section 19. Liability for Infringements of Exclusive Rights

(1) The activities referred to in Section 11, Paragraph one of this Law which have been carried out by a person without the authorisation of the owner of a topography or other legal grounds after the day of registration of the topography or after the day when this person has received a notification from the owner of a topography or the licensee of the exclusive license regarding filing of the topography application with the Patent Office shall be recognised as deliberate infringements.

(2) A person who has carried out the activities referred to in Section 11, Paragraph one of this Law during a period between the day when the owner of a topography has commenced first commercial use of a semiconductor product labelled with a warning mark and the day of registration of the topography shall pay a fair compensation to the owner of a topography and cease using the topography or semiconductor product. In the event of a dispute, the amount of the fair compensation shall be determined by a court, taking into account the economic value of the use of the topography.

(3) A person who has carried out the activities referred to in Section 11, Paragraph one of this Law after the owner of a topography has commenced first commercial use of an unlabelled semiconductor product shall pay a fair compensation to the owner of a topography. If the compensation has been paid and if the respective person wishes so, the owner of a topography shall grant him or her a licence which gives the right to continue using the topography in his or her enterprise to the extent the topography was used before the day of registration thereof. In the event of a dispute, the amount of the fair compensation and the conditions of the licence shall be determined by a court taking account of the economic value of the use of the topography.

[*15 February 2007*]

Chapter VI
Final Provisions

Section 20. Application of the Provisions of Other Laws and International Agreements to Ensuring the Protection of Topographies

(1) Provisions of this Law shall not affect exclusive rights and legal relationship which derive therefrom that are based on the provisions of the Patent Law or other laws in the field of the protection of intellectual property in respect of topographies and semiconductor products in which they are used.

(2) For the purposes of this Law, the relevant provisions of the Patent Law shall be applied by analogy:

1) regarding representation in the Patent Office;

2) [19 November 2015];

3) [19 November 2015];

4) regarding fees;

5) regarding interests of the national defence;

6) regarding use of an invention;

7) regarding a licence and licensing agreement;

8) regarding a compulsory licence;

9) regarding compensation for losses due to the prohibition of publication;

10) regarding resolution of disputes before a court.

(3) [19 November 2015]

[*15 February 2007; 19 November 2015*]

Transitional Provisions

1. Topographies shall be registered in Latvia provided that the first commercial use thereof has been commenced not earlier than two years before the day of coming into force of this Law.

2. [19 November 2015]

Informative Reference to European Union Directive

[*15 February 2007*]

This Law contains legal norms arising from Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

The Law shall come into force on the 30th day following its proclamation.

The Law has been adopted by the *Saeima* on 12 March 1998.

President G. Ulmanis

Rīga, 31 March 1998

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[1] The Parliament of the Republic of Latvia

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