
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

UKRAINE

The present document reproduces the text¹ of the Law on Protection of Rights to Topographies of Integrated Circuits, adopted on 5 November 1997, as last amended on 22 May 2002, as notified by Ukraine under Article 63.2 of the Agreement (see document IP/N/1/UKR/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

UKRAINE

Le présent document contient le texte¹ de la Loi sur la protection des droits relatifs à la topographie des circuits intégrés adoptée le 5 novembre 1997, telle que modifiée en dernier lieu le 22 mai 2002, notifiée par l'Ukraine au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/UKR/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

UCRANIA

En el presente documento se reproduce el texto¹ de la Ley relativa a la protección de los derechos sobre topografías de circuitos integrados, adoptada el 5 de noviembre de 1997, modificada por última vez el 22 de mayo de 2002, que Ucrania ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/UKR/1).

¹ In English only. The text in the original language will be available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées pourront consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

LAW OF UKRAINE

On the Protection of Rights to Topographies of Integrated Circuits (The translation is not official)

(The Official Journal of the Verkhovna Rada (Parliament) of Ukraine (OJU), 1998, № 8, Art.28)
(This Law is issued with consideration of the amendments that were introduced according to the following Laws:

№ 783-XIV of June 30, 1999, OJU, 1999, № 34, Art.74

№ 2188-III of December 21, 2000, OJU, 2001, № 8, Art.37

№ 2921-III of January 10, 2002, OJU, 2002, № 16, Art.114

№ 34-IV of July 4, 2002, OJU, 2002, № 35, Art.256

№ 850-IV of May 22, 2003, OJU, 2003, №35, Art.271)

This Law shall govern the relations arising in connection with the acquisition and use of the property right to topographies of integrated circuits in Ukraine .

Chapter 1

GENERAL PROVISIONS

Article 1. Definitions

For the purposes of this Law:

“Office” means the central body of executive power on the legal protection of intellectual property;

“Appellate Chamber” means a collegial body of the Office for the examination of objections to decisions of the Office on the acquisition of rights to intellectual property objects and on other matters referred to its competence by this Law;

“integrated Circuit ” (IC) means a microelectronic product, in its final or intermediate form, intended to carry out the function of electronic circuit, the components and connections of which are integrally formed in the body and/or on the surface of the material that is the basis of such product irrespective of the way of its manufacturing;

“Topography of Integrated Circuit” (topography of IC) means a spatial geometric arrangement, fixed on a material carrier, of all the components of an integrated circuit and the connections between them;

“Author” means a natural person by the creative work of whom a topography of IC has been created;

“Certificate” means a document that confirms the registration of a topography of IC by the Office and testifies for an exclusive property right to this topography of IC;

“Register” means the State register of Ukraine of topographies of ICs;

“A Registered topography of ic” means a topography of IC, the data of which entered into the Register, and the certificate has been granted to this topography;

“Person” means a natural or legal person;

“Application” means a package of documents required for a topography of IC to be registered and a certificate to be granted;

“Applicant” means a person who has filed an application or has acquired rights of an applicant under another procedure determined by the Law;

“date of the first Use of the topography of ic” means the date on which the use of a topography has become known in the field of microelectronics;

“Employer” means a person that hired a worker under a labour agreement (contract);

“The State System of the Legal Protection of Intellectual Property” means the Office and a number of expertise, scientific, educational, informational and other state institutions of relevant specialization, included in the sphere of management of the Office;

“Examination institute” means the state institution (enterprise or organization) authorized by the Office for consideration and examination of applications;

Article 2. Authorities of the Office in the sphere of the Protection of rights to topographies of ics

The Office provides the state policy implementation in the sphere of the protection of rights to topographies of ICs. To that end it:

- organizes the receiving and examination of applications as well as makes decisions on them;
- grants certificates for topographies of ICs and provides their state registration;
- provides publication of official data on a registered topography of integrated circuit;
- implements international cooperation in the sphere of the legal protection of intellectual property and represents interests of Ukraine on the matters of the protection of rights to topographies of ICs in international organizations according to the current legislation of Ukraine ;
- adopts normative and legislative acts within its authorities under the determined procedure;
- organizes an information and publishing activity in the sphere of the legal protection of intellectual property;
- organizes research works on the improvement of the legislation and on the organization of activity in the sphere of the legal protection of intellectual property;
- organizes the work on the retraining of the personnel of the state system of intellectual property legal protection;
- authorizes institutions included into the state system of the legal protection of intellectual property, in accordance with their specialization, to fulfill individual tasks defined by this Law, by the Statute of the Office and other normative and legislative acts in the sphere of the legal protection of rights to marks for goods and services;
- performs other functions according to its Statute, approved under the determined procedure.

2. The activity of the Office shall be financed by funds of the State Budget of Ukraine.

Article 3. Rights of Foreign and Stateless Persons

Foreign and stateless persons shall have equal rights with the citizens of Ukraine , provided by this Law, excluding those that are established by the international treaties to which Ukraine is a party.

Foreign and stateless persons residing or having a permanent location outside Ukraine exercise their rights in relations with the Office through representatives registered under the Regulations for Representatives on Intellectual Property Matters, approved by the Cabinet of Ministers of Ukraine.

Chapter II

GRANTING OF RIGHTS TO a TOPOGRAPHY OF IC

Article 4. Conditions for granting the Legal Protection to a Topography of IC

The State provides the legal protection of a topography of IC by means of its registration in the Office.

peculiarities of the protection of rights to topographies of ICs considered to be the state secret shall be defined by the certain legislation.

This Law shall not afford the protection of rights to ideas, ways, systems, technologies or coded information that may be produced in the topography of IC.

The exclusive right to use a topography of IC shall be certified by the certificate that confirms the registration of the topography of IC. The certificate shall be valid for ten years either from the date of filing an application to the Office or from the date of the first use of the topography of integrated circuit.

The registration validity shall be terminated in case if such registration is invalidated under Article 20 of this Law.

The scope of rights to a topography of IC shall be defined by the reproduction of the topography of integrated circuit on the material carrier.

Article 5. Protectability Requirements to a topography of ic

A topography of IC shall meet protectability requirements if it is original.

A topography of IC shall be considered as original if it is not created by direct reproduction (copying) of another topography of IC, it has distinctions that provide it with new peculiarities and if it had not been known in the field of microelectronics before the date of filing an application to the Office or before the date of its first use.

A topography of IC shall be considered as original until the proof of the contrary is provided.

A topography containing components that are generally known in the field of microelectronics on the date of filing an application to the Office or the date of the first use of the topography of IC, may be considered as original only in the case when the combination of such components in its entirety meets the requirements of Paragraph 2 of this article.

The recognition of a topography of IC as original shall not be influenced by the information disclosure about it by an author or a person that received such information directly or indirectly from the author, if the term from the date of information disclosure till the date of filing an application to the Office does not exceed two years. For all this, an obligation of proving circumstances of information disclosure, creditability of the date of information disclosure and the date of the first use of the topography of IC shall be laid on the person concerned.

A topography of IC may not be considered as original if the application for its registration has been filed to the Office later than two years from the date of its first use.

Chapter III

The RIGHT For REGISTRATION OF A TOPOGRAPHY OF IC

Article 6. The Right of an Author

The right for registration of a topography of IC shall be entrusted to an author or his/her successor in title.

Authors that have jointly created a topography of IC, shall have equal rights for registration of the topography of IC if other is not provided by the agreement between them.

An author of a topography of IC shall have the right of authorship that is an inalienable moral right and protected without time limit.

Persons, that have provided an author with purely technical, organizational or material assistance or have helped an author in preparing the package of documentation for the acquiring of the legal protection, shall not own the right of authorship.

In case when conditions of the agreement are considered concerning the team of authors, the Office, on a joint request of the persons, that are indicated in the application as well as authors, that are not indicated as such in the application, shall introduce amendments into relevant documents in accordance with the procedure, established by the Office.

Article 7. The Right of an Employer

The right for registration of a topography of IC and all the rights resulting from this registration shall belong to an employer of an author of the topography of IC or to his/her successor in title if the topography of IC has been created in the course of fulfilling professional duties or at the special instruction of the employer unless otherwise provided by a labour (agreement) contract.

An author of a topography of IC created in the course of fulfilling professional duties or at a special instruction of an employer shall give to the employer a written notification on the created topography of IC with the materials that reproduce the topography of IC quite clear and complete.

If an employer or his/her successor in title within four months from the date of receiving of this notification does not file an application to the Office or does not make a decision on keeping the topography as confidential information that he is obliged to communicate about to the author in a written form, the right for registration of the topography shall be assigned to the author.

In case when the employer has exploited his/her right for registration of a topography of integrated circuit or his/her right of keeping it as confidential information, the author shall have the right for remuneration in accordance with an economic value of the topography and other profits that the employer or his/her successor in title has received or could have received.

The remuneration shall be paid to the author in the amount and under the circumstances that must be defined by a written agreement between the author and the employer, concluded not later than four months from the date of receiving the report by the employer.

Disputes concerning circumstances of author's receipt of the remuneration from the employer and concerning its amount shall be resolved in the court procedure.

Article 8. The Right of the First Applicant

If two or more applications for one and the same topography of IC has been filed to the Office by different applicants, the right for registration of the topography shall belong to the applicant whose application has the earliest date of filing to the Office, or, if the date of the first use of a topography of IC has been filed, the right for registration of the topography shall belong to the applicant whose application has the earliest date of the first use on condition that the mentioned application is not considered to be withdrawn, has been not withdrawn, or concerning which the decision about the declination of the registration has been not taken by the Office, leaving no options to be opposed.

Chapter IV

The Procedure of registration of A TOPOGRAPHY OF IC

Article 9. An Application for registration of a Topography of IC

A person who wishes a topography of IC to be registered and has the right for this, may file an application for registration to the Office. An application for registration of a topography of integrated circuits may be filed by one or more persons.

An application for registration may be filed through a representative on intellectual property issues or another person, authorized by the applicant. The Person, authorized by the applicant, shall not be a staff member of the Office or of the Examination institute.

An application for registration of a topography of IC shall relate only to one topography of IC.

An application for registration shall be made in the Ukrainian language and shall contain:

a request for registration of a topography of IC;
materials identifying a topography of IC.

With the purpose to identify a topography of IC that has not been used before the date of filing an application, a copy of materials revealing a thorough information on the topography shall be filed to the Office.

With the purpose to identify a topography of IC that has been used before the date of filing an application, samples of integrated circuits that contain this topography in the same form as it has been introduced into the turnover shall be filed to the Office in addition to the application. In this case, a request shall also contain information about the date of the first use of the topography of IC and materials shall contain essential technical characteristics of the sample of the topography of IC.

When filed materials that identify a topography of integrated circuits contain information about any layer of the topography of IC or its part, that is confidential to an author's opinion, this layer in its whole or relevant part of it may be eliminated and added to the package of materials that identify the topography of IC in the coded form.

Materials, filed by an applicant, that identify a topography of IC, and samples of integrated circuits that include this topography, shall be preserved by the Office for six years after the date of registration expiry. On the expiry of this period, materials on identification and samples of integrated circuits shall be returned to a right's owner on his request, and when there is no such request, materials shall be destroyed.

It is necessary to indicate the address of an applicant (applicants) as well as of an author (authors) in the request for registration of a topography of IC.

In case when there are two or more applicants, it may be indicated in the request to what address a certificate shall be sent.

An author shall have the right to require not to be mentioned as the author in the publication of the Office.

Other requirements to an application's documents shall be established by the Office.

A fee shall be paid for filing an application. The document on the fee payment shall be filed to the Office either together with an application or within two months as from the date of filing an application. This period may be extended but for no more than six months, if before its expiry a relevant request has been filed and a fee has been paid for its filing.

Article 10. The Date of filing an application

The date of filing an application shall be the date on which the Office receives the application that meets all requirements mentioned in Paragraphs 4-6 of Article 9 of this Law.

The date of filing an application shall be defined in accordance with Paragraphs 8 and 9 of Article 11 of this Law.

Article 11. Examination of an Application

The examination of an application has the status of scientific and technical examination and shall be held by the examination institute under this Law and according to regulations issued by the Office in compliance with this Law.

The Examination Institute shall carry out an information activity required for the examination of applications and shall be the center for an international exchange of information communications according to the Convention on International Information Communication, adopted on December 3, 1958, by the United Nation General Conference for Education, Science, and Culture.

Final results of the examination of an application that is not considered withdrawn or has not been withdrawn, shall be presented in a grounded conclusion of the examination, which shall be valid after its approving by the Office. Based on such a conclusion, the Office shall make a decision on the registration of a topography of IC or on refusing the registration of a topography of IC. An applicant shall be notified on the Office decision.

An applicant shall have the right to require copies of the information materials, opposed to the application, within a month after receiving the Office decision. These copies shall be sent to the applicant within a month.

An applicant has the right, on his own initiative or on the Examination Institute invitation, to participate personally or through his representative in the discussion of matters arising in the course of the examination under the procedure specified by the Office.

An applicant has the right to correct errors in the application, change his name (title) and his address, address for mailing, as well as the name and address of his representative.

An applicant may make changes in the application that are connected with the change of the person of the applicant by the consent of all other applicants mentioned in the application. The person who wishes to be the applicant may also make these changes by the consent of all other applicants.

The said corrections and changes shall be taken into consideration, provided that the Examination Institute has received them not later than the receipt of the document on the payment of state fee for registration of a topography of IC is received.

The request on correcting a mistake or making any of the mentioned changes shall be subject to the payment of the fee, provided that a mistake is not obvious or technical, and the change is caused by reasons depended on an applicant.

The Examination Institute may demand from an applicant to submit additional materials if the examination is impossible without these materials or if the Examination Institute has reasonable doubts concerning the veracity of the information or elements presented in the application documents.

An applicant shall have the right to request copies of the materials, opposed to the application, within a month after receipt of the Examination Institute notification or conclusion with the demand to submit the additional materials.

An applicant shall submit additional materials within two months from the date of receiving the notification or conclusion of the Examination Institute or copies of the materials, opposed to the application. The period for submitting the additional materials may be extended, but for no more than 6 months, provided that the relevant request is submitted and the fee is paid before expiry of the said period. This period missed for valid reasons shall be renewed provided that the relevant request is submitted and the fee is paid within 6 months after the expiry of the period. If an applicant has failed to submit additional materials within the fixed period, an application would be considered withdrawn, and the applicant shall be notified accordingly.

In the course of the examination:

the date of filing of an application shall be defined under Article 10 of this Law;

it shall be defined whether a filed object is a topography of IC;

an application shall be examined for conformity with the formal requirements of Article 9 of this Law and regulations established by the Office in compliance with this Law.;

the document on payment of the fee for filing an application shall be examined for conformity with specified requirements.

If the application materials meet the requirements of Article 10 of this Law and the document on payment of the fee for filing an application is presented, the applicant shall be notified on the defined date of filing an application.

If the application materials do not meet the requirements of Article 10 of this Law, an applicant shall be immediately notified. If the applicant removes the nonconformity within 2 months from the date of receiving the notification, the date on which the Examination Institute received the corrected application materials shall be considered to be the date of filing the application. Otherwise, the application is considered not filed, and the applicant is notified accordingly.

In case when the requirements provided by Paragraph 11 of Article 9 of this Law are disregarded, the application shall be considered as withdrawn, and an applicant shall be notified accordingly.

If there are reasons to consider that a filed object belongs to objects mentioned in Paragraphs 2 of Article 4 of this Law, or documents of an application do not meet the formal requirements of Article 9 of this Law as well as regulations established by the Office in compliance with this Law, or when the document on the fee payment for filing an application do not meet the specified requirements, the Examination Institute shall send to the applicant a grounded preliminary conclusion with the proposition to give a motivated answer for eliminating, if necessary, defects indicated in the conclusion.

An applicant's answer shall be filed within the period defined in Paragraph 6 of this Article for additional materials, and it shall be taken into consideration while preparing a conclusion of the examination of the application.

Article 12. Registration of a Topography of IC

Since a decision on registration of a filed topography of IC has been taken, the Office shall provide the registration of the filed topography of IC entering relevant data into the Register.

The form of the Register and the procedure of its maintaining shall be determined by the Office.

The state registration of a topography of integrated circuits shall be provided in case of presence of documents on the payment of the state fee for registration of a topography of integrated circuits and on the payment of the fee for publication on registration of a topography of IC. An applicant shall pay the said fees after receiving the decision on registration of a topography of IC.

If within three months from the date of receiving a decision on registration of a topography of IC, the documents on the payment of the state fee for registration of the topography of IC and of the fee for publication on registration of a topography of integrated circuits in the amount and under the procedure defined by the legislation, have not been submitted to the Examination Institute, the application would be considered withdrawn.

The period for submitting these documents may be extended for no more than 6 months provided that before the date of expiry of this period, the relevant request has been filed and the fee for filing the request has been paid. This period defaulted due to important reasons shall be renewed provided that the relevant request has been filed and the fee has been paid within 6 months from the expiry of this period.

After the data on registration of a topography of IC has entered into the Register, any person shall have the right access to this information under the procedure established by the Office and to obtain an abstract of the data concerning on a topography of IC from the Register upon his request, provided that the fee for filing of the said request has been paid.

The errors in the entered data in the Register shall be corrected on the initiative of the certificate owner or of the Office.

Changes to the Register may be introduced on the initiative of the certificate owner according to the specified list of permitted changes. The introduction of changes to the Register with respect to the certificate shall be subject to the payment of the fee.

The registration of a topography of IC shall be provided under an applicant's responsibility for its proctability.

Article 13. Publication of data on Registration

Concurrently with the state registration of a topography of IC, the publication of data on registration of a topography of IC in the Official Gazette shall be provided under the established procedure.

After the publication of official data on the registered topography of integrated circuits has been made, any person shall have the right to access to the materials of the application under the procedure established by the Office. The fee shall be paid for the access to the materials of the application.

In case when obvious errors have been found in the published data, an applicant shall have the right to appeal to the Office with a request on their correction.

Article 14. Granting a Certificate

The Office shall grant the certificate within a month from the date of the state registration of a topography of IC.

If an application has been filed by several applications, one certificate shall be granted to them and shall be sent to an applicant whose address has been indicated for this purpose in the request, and in case of absence of such indication, the certificate shall be sent to the applicant who has been at the head in the list of applicants indicated in the request.

The form of the certificate and the contents of the certificate shall be determined by the Office. The text in the certificate shall be provided in the Ukrainian language.

On the request of the owner of the certificate the Office shall enter the correction of obvious errors into the certificate and publish data on those corrections.

In case when the certificate has been lost or damaged, the certificate shall be granted a certificate duplicate under the procedure determined by the Office. Granting a duplicate of a certificate shall be subject to the payment of fee.

Article 15. Appellation Against the Decision on an Application

An applicant may appeal to the court or to the Appellate Chamber against the Office decision on an application within two months from the date of receiving the Office decision or copies of materials required according to Paragraph 3 of Article 11 of this Law.

If the Office decision on the application has been appealed to the court after the state registration of a topography of IC, the court shall consider simultaneously the issue on the validity of the relevant certificate.

The right to appeal the Office decision in the Appellate Chamber would be lost after the payment of the state fee for registration of a topography of integrated circuits.

The appeal against the Office decision in the Appellate Chamber shall be accomplished by submitting the objection on the Office decision under the procedure determined by this Law and the regulations of the Appellate Chamber approved by the Office. The submission of the objection shall be subject to the payment of the fee. If the fee has not been paid within the period fixed in Paragraph 1 of this Article, the objection shall be considered as not submitted, and the applicant shall be notified accordingly.

In case when the Appellate Chamber has received an objection and a document for payment of the fee for submitting the objection, the processing of an application shall be terminated until the approval of the decision by the Appellate Chamber.

An objection against the Office decision on an application shall be considered according to the Appellate Chamber regulations within two months from the date of receiving the objection and the document on the payment of the fee for submitting the objection, within the framework of the reasons presented in the objection by an applicant and during the discussion of the objection. The period for consideration of the objection shall be extended on the initiative of the applicant, but for no more than two months, provided that the relevant request has been submitted and the fee has been paid with respect to the request.

On results of consideration of an objection, the Appellate Chamber shall make a grounded decision that shall be approved by the order of the Office and be sent to the applicant.

If an objection has been fully or partially satisfied, the fee for submitting the objection shall be returned to an applicant.

Before approving the Appellate Chamber decision, within a month from the date of making the decision, the Head of the Office may present a grounded written protest against this decision, and this protest shall be considered within a month. The decision of the Appellate Chamber made on the protest shall be final and may be cancelled only by the court.

An applicant may appeal to the court against the Appellate Chamber decision approved by the Office within two months from the date of receiving the decision.

Chapter V
RIGHTS AND OBLIGATIONS DERIVING FROM the registration of a topography of iC

Article 16. Rights deriving from Registration of a Topography of Integrated Circuits

Rights deriving from registration of a topography of IC shall be effective from the date of entering data on a topography of IC into the Register.

The registration of a topography of integrated circuits shall give the exclusive right to an owner of the registered topography of integrated circuits to use the topography at his own discretion if such a use do not infringe rights of other owners of registered topographies of ICs.

The registration shall give the right to an owner of a registered topography of IC:

to prohibit other persons without his permission to use the topography of integrated circuits, excluding the cases when such a use under Article 17 of this Law is not defined as infringement of the owner's rights of the topography of IC;

to transfer by an agreement the property right to a topography of IC to any person who shall become a successor in title of the owner of the registered topography of IC;

to grant a permission (license) to use the topography of IC to any person by a licensing agreement.

The following acts shall be considered as the use of a topography of IC:

copying of a topography of integrated circuits;

manufacturing of integrated circuits with the utilization of the topography;

manufacturing of any products that contain such integrated circuits;

import of such integrated circuits and of products that contain them, into the territory of Ukraine;

offering for sale, including via Internet, sale and other introducing to the civil turnover or preserving for the mentioned purposes of integrated circuits, manufactured with the utilization of the topography of IC and of products that contain such integrated circuits.

Integrated circuits shall be considered as manufactured with the utilization of the registered topography, providing that all the components that define the topography of IC as original, have been utilized.

In case where a certificate belongs to several persons, relations while using a registered topography of IC shall be defined by an agreement between these persons.

In case of absence of such agreement each of owners of rights to the registered topography of integrated circuits may use the topography at his own discretion, however none of them has the right to grant a permission (license) for the use of the registered topography of IC and for the transfer of the property right to the registered topography of IC to another person without the consent of the remaining rights' owners.

5. An agreement on transferring the property right to a topography of integrated circuits and a licensing agreement shall be valid if they have been concluded in writing and signed by the contracting parties.

Each contracting party has the right to notify an indefinite circle of persons about transferring the property right to a topography of integrated circuits or granting a license for using the topography of IC. Such a notification shall be provided by publishing the information in the Official Gazette of the Office in the volume and under the procedure determined by the Office with simultaneous entering this data into the Register.

Fees shall be paid for publication of the said information and of changes to the information on granting a license proposed by the contracting party.

6. Rights deriving from registration of a topography of IC shall not affect other personal property or moral rights of the author of the topography of integrated circuits.

7. An owner of rights to a registered topography of IC or his successor in title shall have the right to notify about the registration of the topography of IC by marking the topography or products that contain this topography with the letter "T", indicating the date of the validity of exclusive right to use

the topography of integrated circuits and the information, that give the opportunity to identify the owner of rights.

Article 17. Actions not Recognized as Infringements of Rights to a Registered Topography of IC

1. The following shall not be recognized as infringements of rights acquired by registration of a topography of IC when the registered topography of integrated circuits is used:

in a construction or in the course of exploiting a transportation means of a foreign country that temporarily or occasionally placed in waters, air space or on the territory of Ukraine on condition that the registration topography of IC is used purely for the needs of the mentioned means;

with no commercial purpose;

with a research purpose or in the course of experiment;

under emergency circumstances (natural calamity, catastrophe, epidemic, epizootic, etc,) with notification of the owner of rights to the topography of integrated circuits about such a use at the first opportune moment and with payment of equal compensation to the owner.

2. Import to the customs territory of Ukraine, offer for sale, sale, preservation with the mentioned purposes or other introduction of lawfully acquired integrated circuits into the turnover that have been manufactured with the use of a registered topography as well as other objects containing such integrated circuits, shall not be recognized as infringements of rights acquired by the registration of the topography of integrated circuits.

Integrated circuits with the registered topography and objects containing such integrated circuits shall be considered as lawfully acquired by any person if after their manufacture they have been introduced into the turnover by the owner of rights to this registered topography of IC or by his permission.

3. The use of IC by any person who has acquired the IC and thereby did not and could not know that this integrated circuit or object containing it, had been manufactured and introduced into the turnover infringing the rights acquired by the registration of the topography of integrated circuits, shall not be recognized as infringements of rights acquired by the registration of the topography of IC.

However, once the corresponding notification has been received from the rights' owner, the mentioned person must stop the use of integrated circuits or pay the compensation to him, the amount of which shall be defined by the agreement of parties. Disputes concerning the compensation and procedure of its payment shall be resolved in the court procedure.

4. Any person who had been in good faith used a topography of integrated circuits before the date of filing of an application for registration of the topography of integrated circuits to the Office by an applicant or who had made a considerable and serious preparation to such a use, shall have the right of prior use of this topography of IC.

The right of prior use may be transferred or transmitted to another person only either with the enterprise or business practice or with the part of the enterprise or business practice, in which the filed topography of IC had been used or a considerable and serious preparation to such a use had been made.

Article 18. Obligations of an Owner of Rights to a Registered Topography of IC

1. An owner of rights to a registered topography of IC must use the exclusive right acquired by the registration in good faith.

2. If a registered topography of IC has not been used for three years from the date of data publication about the registration or from the date when the use of the topography of IC had been terminated, any person wishing and being ready to use the topography of IC may appeal to the court with a request concerning the grant of permission for the use of the registered topography of IC in case when an owner of rights to the registered topography of IC has refused to provide a licensing agreement.

3. If an owner of rights to a registered topography of IC can not prove that the registered topography of IC has been unused for valid reasons, the court may give a decision on the grant of permission to the person concerned for the use of the registered topography of integrated circuits determining the scope of its use, the period of permission validity, the amount and procedure of paying a remuneration to the owner of rights.

Article 19. The Use of a Registered Topography of IC Without Permission of an Owner of Rights to It

1. Pursuing the health of people, ecological security and other social interests, the Cabinet of Ministers of Ukraine may permit the use of a registered of IC to the person defined by itself without consent of an owner of rights to the topography of IC in case of his groundless refusal to provide a license on its use. Thereat:

the permission for such a use shall be granted under specific circumstances;

the scope and duration period of such a use shall be defined by the purpose of the granted permission, it must be purely noncommercial use by bodies of state power or fulfilling an anti competition practice by the decision of a corresponding body of state power;

the permission for such a use shall not deprive an owner of rights to a registered topography of IC to grant permissions for its use;

the right to such a use shall not be transferred excluding the case when it has been transferred together with the part of the enterprise or business practice in which this use has been carried out;

the use shall be permitted in the first instance for providing the internal market needs;

the notification concerning the grant of the permission for the use of a registered topography of IC shall be sent to an owner of rights to it at the first opportune moment;

the permission for the use shall be revoked in case of discontinuance of circumstances under which this permission has been granted;

an equal compensation in accordance with an economic value of the topography of IC shall be paid to an owner of rights to a registered topography of IC.

2. The resolution of the Cabinet of Ministers of Ukraine concerning the grant of the permission for the use of a registered topography of IC, the validity period and conditions of the grant, revocation of the permission for the use, amount and procedure of paying a remuneration to an owner of rights to a registered topography of IC may be appealed in the court procedure.

Chapter VI

Invalidation of Registration of a Topography of IC

Article 20. Invalidation of Registration of a Topography of IC

1. Registration of a topography of IC may be invalidated in the court procedure in case of: inadequacy of a registered topography of IC with requirements of protectability defined in Article 5 of this Law;

infringements of requirements under Paragraph 2 of Article 24 of this Law;

registration of a topography of IC as sequence of filing an application infringing rights of other persons.

While invalidating the registration of a topography of IC the Office shall make a notification about this in the Official Gazette.

Registration of a topography of IC that has been invalidated shall be considered as invalid from the date of the registration of a topography of IC.

Article 21. Infringements of rights of an Owner of a Registered Topography of IC

Any offence against rights of an owner provided by Article 16 of this Law shall be considered as an infringement of rights of the owner of a registered topography of IC entailing liability in accordance with the current legislation of Ukraine.

On the request of an owner of rights to a registered topography of IC, such an infringement shall be terminated, and an infringer shall be obliged to indemnify an actual damage to the owner.

The person that has acquired a license, may also request a restoration of affected rights of an owner of a topography of IC, by the consent of the owner.

Article 22. Means of Rights Protection

The protection of rights to a topography of IC shall be provided in the court and other procedure specified by the legislation.

The jurisdiction of courts shall cover all legal relations arising in connection with this Law enforcement.

Courts according to their competence shall resolve disputes concerning:

authorship to a topography of IC;

ascertainment of fact of the use of a topography of IC;

infringement of rights of a certificate owner;

conclusion and execution of licensing agreements;

compensations.

Chapter VIII

CONCLUSIVE PROVISIONS

Article 23. Fees

An amount of the state fee and a procedure of paying the state fee for registration of topographies of ICs shall be determined under the legislation.

Costs obtained from the payments of the state fee for registration of topographies of ICs shall be included to the State Budget of Ukraine.

The amount, payment terms and procedure of paying the state fee shall be specified by the Cabinet of Ministers of Ukraine.

The fees provided by this Law shall be paid to current accounts of the institutions authorized by the Office and included to the state system of the legal protection of intellectual property and, with consideration of their specialization, carry out certain tasks defined by this Law.

The earnings from fees provided by this Law are purpose-oriented and, according to the orders of the Office, shall be used exclusively for providing the development and functioning of the state system of the legal protection of intellectual property, in particular for implementing tasks defined by this Law and other normative and legislative acts in the sphere of intellectual property.

Article 24. Protection of Rights to Topographies of ICs in Foreign States

An author of a topography of IC or his successor in title, an employee of an author or his successor in title shall have the right for registration of a topography of IC in foreign states.

Before filing an application for acquiring the protection of rights to a topography of IC to an institution of a foreign state, unless other provided by international agreements to which Ukraine is a party, an applicant shall be obliged to file an application to the Office and notify it about intentions of such protection.

Expenses with respect to acquiring the protection of rights to a topography of IC in foreign states, shall be borne by an applicant or by another person by applicant's consent.

Article 25. The State Stimulation of Creation and Use of Topographies of ICs

The State shall stimulate the creation and use of topographies of ICs, define favourable conditions for taxation and crediting for authors that use the topographies; provide other privileges according to the legislation of Ukraine.

Article 26. Entry into Force of This Law

The Law of Ukraine “On the Protection of Rights to Topographies of Integrated Circuits” shall enter into force from the day of its publication.

The President of Ukraine
L. Kuchma

Kyiv, November 5, 1997
№ 621/97-VR
