

# ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/AUT/L/2  
19 de noviembre de 1996

(96-4902)

Consejo de los Aspectos de los Derechos de Propiedad  
Intelectual relacionados con el Comercio

Original: inglés

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

### Austria

Mediante una comunicación de fecha 22 de octubre de 1996 enviada por la Misión Permanente de Austria ante la OMC, Austria ha notificado las leyes y reglamentos<sup>1</sup> siguientes como complemento de la notificación que presentó en virtud del párrafo 2 del artículo 63 del Acuerdo y que fue distribuida con la signatura IP/N/1/AUT/1/Rev.2:

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<sup>1</sup>Los textos de esas leyes y reglamentos se reproducen en inglés solamente.

528. Decree of the Federal Minister for Economic Affairs dated September 12<sup>th</sup>, 1988, and concerning the registration of topographies of microelectronic semiconductor products and the semiconductor protection register (Semiconductor-Decree - HlSchV)

Pursuant to Section 9, para 4 and Section 10, para 4 of the Semiconductor Protection Law, Federal Law Gazette No 372/1988, it is hereby decreed:

#### Application

Section 1. When filing an application in respect of the topography (Section 9, para 1 HlSchG) the request for entering the protection of the topography into the semiconductor protection register must be submitted together with the information stipulated in Section 9, para 2, Z 1, 3 and 4, but separated from the documents for the identification and illustration of the topography (Section 9, para 2 Z 2 HlSchG).

#### Request for Registration

Section 2. (1) The request for registration of protection of the topography into the Semiconductor Protection Register (Section 9, para 2, Z 1 HlSchG) must contain

1. the name and address of the applicant and, where applicable, his/her national representative,
2. with natural persons the nationality or, where the applicant is not an Austrian citizen, his/her permanent domicile and/or with legal persons and partnerships according to commercial law the real establishment.

(2) The name or product definition of the topography plus an indication of the product field may serve as short and exact definition (title of the topography) (Section 9, para 2, Z 1 HlSchG).

(3) The date of the day of the first other than confidential exploitation of the topography shall be indicated if this date precedes the application (Section 9, para 2, Z 3 HlSchG).

(4) Where the entitlement is based on Section 3, para 3 of the Semiconductor Protection Law, information on the nationality and the permanent domicile and/or the location of the establishment of the person originally entitled in accordance with Section 3, paras 1 or 2 of the Semiconductor Law and on the exclusive authorization granted by the latter to commercially exploit the topography for the first time in Austria other than confidentially, shall be required.

#### Material

Section 3. (1) The following material shall be furnished to identify and illustrate the topography:

1. Drawings or photographs of layouts for the production of the semiconductor product, or
2. Drawings or photographs of masks or parts thereof for the production of the semiconductor product, or
3. Drawings or photographs of individual layers of the semiconductor product.

(2) In addition to the material listed in para 1 data carriers or printouts thereof or the semiconductor product as such, for the

topography of which protection is requested, or an explanatory description may be filed.

#### Material containing industrial or commercial secrets

Section 4. (1) Material containing industrial or commercial secrets and having been designated as such by the applicant, shall be filed under separate cover. The material may also be submitted in one original and a (second) copy, parts of which have been obliterated; In this case the second copy shall be subject to inspection to the extent provided for in Section 18, para 2, first sentence of the Semiconductor Protection Law.

(2) Material in accordance with para 1 shall be kept separately under lock and key by the Patent Office.

(3) Where inspection of material in accordance with para 1 is to be granted upon order of the Nullity Division or the court (Section 18, para 2, second sentence HlSchG), the respective parts shall be transmitted by the Patent Office under lock and key and with due reference to the secrecy provisions direct to the Nullity Division or the court.

(4) Where the request for inspection of material according to para 1 is based on Section 18, para 3 of the Semiconductor Protection Law the decision shall be made by the competent, legally qualified member of the Legal Division in accordance with the assignment of functions (Section 16, para 3 HlSchG) upon hearing of the owner of the protection right.

#### Semiconductor Protection Register

Section 5. (1) In addition to the information requested for an entry into the Semiconductor Protection Register in accordance with Section 10, para 2 of the Semiconductor Protection Law, also the

date of entry and information on the material submitted in accordance with Section 9, para 2, Z 2 of the Semiconductor Protection Law, shall be entered.

(2) Inspection of material submitted in accordance with Section 9, para 2, Z 2 of the Semiconductor Protection Law shall not include the right of making copies thereof.

(3) Extracts from the Semiconductor Protection Register shall not comprise material submitted in accordance with Section 9, para 2, Z 2 of the Semiconductor Protection Law.

#### Entering into Force

Section 6. This decree shall enter into force on October 1<sup>st</sup>, 1988.

439<sup>th</sup> Decree of the Federal Minister for Economic Affairs, amending the Semiconductor Protection Decree as published in Federal Law Gazette No. 528/1988

Pursuant to Section 9, para 4 and Section 10, para 4 of the Semiconductor Protection Law, Federal Law Gazette No 372/1988, in the latest version of the 1996 Semiconductor Protection Law Amendment as published in Federal Law Gazette No 428/1996, it is hereby decreed:

The Semiconductor Protection Decree as published in Federal Law Gazette No 528/1988 shall be amended as follows:

1. Section 2, para 1 shall read:

"(1) The request for registration of protection of the topography into The Semiconductor Protection Register (Section 9, para 2, 2 1 HlSchG) must contain

1. the name and address of the applicant and, where appropriate, his/her representative.
2. with natural persons the nationality or the permanent domicile, with legal persons of companies of equal status as legal persons according to Section 5, para 1 HlSchG the real and not only a pro forma industrial or commercial establishment."

2. Section 2, para 4 shall read:

"(4) Where the entitlement is based on Section 3, para 3, of the Semiconductor Protection Law, information on the nationality and the permanent domicile or the location of the real and not only a proforma industrial or commercial establishment of the person

originally entitled in accordance with Section 3, paras 1 or 2 of the Semiconductor Law are required, on the exclusive authorization given by the latter to commercially exploit the topography other than confidentially within the entire scope of the Agreement on the European Economic Area, as well as on the date of the first commercial exploitation of the topography other than confidentially in a Member-State of the European Union or another state who is a party to the Agreement on the European Economic Area."

3. Section 6 shall read:

"Section 6 (1) This decree shall enter into force as at October 1<sup>st</sup>, 1988

(2) Section 2, paras 1 and 4 in the version of the decree as published in Federal Law Gazette No 439/1996 shall enter into force simultaneously with the entering into force of the 1996 Semiconductor Protection Law Amendment as published in Federal Law Gazette No 428/1996."