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**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**

Austria

By means of a communication from the Permanent Mission of Austria to the WTO, dated 22 October 1996, Austria has notified the text of the 1996 Amendment to the Semiconductor Protection Law¹, BGBl. 428/1996, under Article 63.2 of the Agreement.

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

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES
A LA PROPRIETE INTELLECTUELLE NOTIFIEES
AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD**

Autriche

Par une communication de la Mission permanente de l'Autriche auprès de l'OMC datée du 22 octobre 1996, l'Autriche a notifié le texte¹ de l'Amendement de 1996 à la Loi sur la protection des semi-conducteurs, BGBl. n° 428/1996, au titre de l'article 63:2 de l'Accord.

**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**

Austria

Según lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo, Austria ha notificado el texto de la Modificación de 1996 de la Ley de Protección de Semiconductores¹ BGB1. 428/1996 mediante una comunicación de la Misión Permanente de Austria ante la OMC, de fecha 22 de octubre de 1996.

¹English only/anglais seulement/inglés solamente.

428th Federal Law, by which the Semiconductor Protection Law shall be amended and the Announcement of the Federal Minister for Economic Affairs dated 11th September, 1989, and concerning the reciprocity according to the Semiconductor Protection Law vis-à-vis Belgium, the Federal Republic of Germany, Denmark, France, Greece, The United Kingdom, Ireland, Italy, Japan, Luxembourg, The Netherlands, Portugal, Sweden, Spain, and The United States of America shall be abrogated (1996 Amendment to the Semiconductor Protection Law)

The National Council has decided:

Article I

Amendment of the Semiconductor Protection Law

The Semiconductor Protection Law, Federal Law Gazette No. 372/1988, shall be amended as follows:

1. Section 3, para 3 shall read:

"(3) Where the person entitled in accordance with paras (1) or (2) is unable to assert his/her right for failure to satisfy the requirements of section 5 and where the topography has not previously been commercially exploited or has only been exploited in this way confidentially, the right shall belong to the person, who

1. has first commercially exploited the topography in a Member-State of the European Union or in another state who is a party to the Agreement on the European Economic Area other than confidentially, and

2. has received from the entitled person the exclusive authorization to commercially exploit the topography other than confidentially within the entire scope of the Agreement on the European Economic Area.

Assertion of such right through an application shall cause the right based on paras (1) and (2) to lapse."

2. Section 5 shall read:

"Section 5 (1) The right to semiconductor protection (Section 3) may only be asserted by

1. natural persons who are citizens of a Member-State of the European Union or another state who is a party to the Agreement on the European Economic Area, or have their permanent domicile in such a state, and
2. legal persons having a real and not only a pro forma industrial or commercial establishment in one of these states.

Companies who may be subjects of rights and duties in accordance with the law applicable to them, shall have equal status as legal persons in accordance with 2 2, without actually being legal persons.

(2) Other persons may only assert a right to semiconductor protection, if

1. they are entitled thereto on the basis of an international agreement or on the basis of the law of the European Community, or

2. the state whose nationality they possess or in which they have their permanent domicile or a real and not only a pro forma industrial or commercial establishment, affords the same protection to entitled persons in accordance with para 1, and the reciprocity has been established by an announcement of the Federal Minister for Economic affairs, published in a Federal Law Gazette.

3. The following para 3 shall be added to Section 6, para 2:

"(3) The exclusive right in accordance with para 1, Z 2 shall not extend to activities undertaken after the topography or the semiconductor product have been put on the market by the person entitled to authorize such putting on the market or with his/her consent in a Member State of the European Union or another state who is a party to the Agreement on the European Economic Area."

4. Section 7 shall read:

"Section 7. Semiconductor protection shall not have effect with respect to a person who acquires a semiconductor product without knowing or without being assumed to know that it contains a protected topography; as soon as that person knows or is assumed to know that the topography is protected by a semiconductor protection right, he/she shall be required to pay to the owner of the protection right, at the latter's demand, for any further commercial exploitation of the previously acquired semiconductor product, a compensation corresponding to an adequate license fee. The owner of the protection right shall be entitled to require the rendering of accounts in accordance with Section 151 of the 1970 Patent Law (Federal Law Gazette No. 259)."

5. Section 18, para 2 shall read:

"(2) Any person may inspect files concerning registered semiconductor rights - with the exception of records of deliberations and those parts of the files relating to internal business-, subject to the following provisions. Such inspection shall also apply to materials and, where appropriate, to the semiconductor product itself, filed with the application in accordance with Section 9 (2) 2, with the proviso, however, that inspection of material that contains industrial or commercial secrets and has been designated as such by the applicant in the application, shall only be granted in nullity, lack of title or declaration proceedings on the instructions of the Nullity Division or in a legal dispute concerning the infringement of the semiconductor right on the instructions of the court, in respect of persons who are party to the nullity, lack of title or declaration proceedings or to the legal dispute. Material required to identify or illustrate the topography may not be designated as a whole as industrial or commercial secrets."

6. Section 21, para 1 shall read:

"(1) Any person who has suffered an infringement of his/her semiconductor right (Section 6) may take action in accordance with Sections 147 to 154 and 164 of the 1970 Patent Law, applied mutatis mutandis, for injunction, removal, publication of judgment, appropriate remuneration, damages, surrender of profit, adequate compensation, and rendering of accounts. Any person who has reason to suspect such infringement may also institute action for injunction and for publication of judgment."

Article II

Abrogation of Announcement

Upon the entering into effect of this Federal Law the Announcement of the Federal Minister for Economic Affairs, dated 11th September, 1989, and referring to the reciprocity according to the Semiconductor Protection Law vis-à-vis Belgium, The Federal Republic of Germany, Denmark, France, Greece, The United Kingdom, Ireland, Italy, Japan, Luxembourg, The Netherlands, Portugal, Sweden, Spain, and the United States of America, Federal Law Gazette No 494, shall be abrogated.