

**THE PARLIAMENTARY ASSEMBLY
OF BOSNIA AND HERZEGOVINA**

Pursuant to Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 75th session of the House of Representatives, held on April 7, 2010, and at the 46th session of the House of Peoples, held on May 28, adopted

THE LAW ON THE PROTECTION OF TOPOGRAPHIES OF INTEGRATED CIRCUITS

PART ONE – GENERAL PROVISIONS

Article 1
(Subject Matter of the Law)

This Law governs the following: the topography of an integrated circuit, conditions of protection of the topography of an integrated circuit, the rights of its creator, and of the creator's employer or the rights of the person having commissioned its creation, as well as the manner of enforcement of such rights.

Article 2
(Definitions of Terms)

(1) An integrated circuit, for the purposes of this Law, shall be a product in its final or an intermediate form, intended to perform an electronic function, consisting of a piece of material which includes one or more interconnected layers composed of integrated elements, at least one of which is an active element.

(2) The topography of an integrated circuit (hereinafter: topography), for the purposes of this Law, shall be a series of related images, fixed or encoded in any manner, representing three-dimensional pattern of layers of which the integrated circuit is composed, whereat each image contains whole or part of the pattern of a semiconductor product in every phase of its production.

(3) Commercial exploitation shall mean the sale, rental or any other method of commercial distribution of topography, including its offer for such purposes. The first commercial exploitation of topography shall not include its exploitation under the conditions of confidentiality if no further distribution thereof occurs.

Article 3
(Exclusions from Protection)

This Law shall not protect any concept, process, system, technology or information embodied in topography.

Article 4
(Subject Matter and Conditions of Protection)

(1) The subject matter of protection shall be a topography that is original in the sense that it is the result of its creator's own intellectual effort and is not commonplace among creators of topographies and manufacturers of integrated circuits at the time of its creation.

(2) A topography consisting of elements and interconnections that are commonplace in the industry of topographies shall be protected only if, taken as a whole, fulfills the conditions referred to in paragraph (1) of this Article.

Article 5
(Time Limits for Applying for Protection)

(1) The protection of topography may be applied for within the period of two years from the date of its first commercial exploitation anywhere in the world.

(2) If a topography has not been commercially exploited anywhere in the world, the protection thereof may be applied for within a period of 15 years from the day of its creation.

Article 6
(Persons Having the Right to Protection)

(1) The right to protection of topography shall belong to its creator or his legal successor, respectively. If several persons have jointly created topography, the right to protection shall jointly belong to all of them.

(2) If topography is created in the course of employment or on commission, the right to protection of the topography shall belong to the creator's employer or to the person having commissioned the creation thereof, unless otherwise provided by contract.

Article 7
(National Treatment)

(1) The protection under this Law shall be enjoyed by natural persons and legal entities who or which:

- a) are nationals of Bosnia and Herzegovina,
- b) have their domicile or principle place of business in Bosnia and Herzegovina or
- c) have first commercially exploited in the territory of Bosnia and Herzegovina a topography which has not yet been exploited commercially anywhere in the world.

(2) Foreign natural persons and legal entities shall enjoy the same protection as is enjoyed by the persons referred to in paragraph (1) of this Article if that arises from the international treaties and conventions acceded to or ratified by Bosnia and Herzegovina or from the application of the principle of reciprocity.

(3) The right to protection of a topography granted under this Law shall be in effect within the territory of Bosnia and Herzegovina only.

Article 8
(Representation)

A foreign person shall be represented in the procedure for the protection of topography by a representative performing representation activities on professional basis and who is a national of Bosnia and Herzegovina or a domestic legal person.

PART TWO - PROTECTION PROCEDURE

Article 9
(General Provisions)

(1) Procedures for the protection of topography shall be carried out by the Institute for Intellectual Property of Bosnia and Herzegovina (hereinafter: the Institute).

(2) First-instance decisions on merits of a case issued by the Institute may be appealed, and appeals shall be decided by the Board of Appeal (hereinafter: the Board) of the Institute.

(3) Second-instance decisions issued by the Board may not be appealed, however, an administrative dispute may be instituted before the Court of Bosnia and Herzegovina.

(4) Actions carried out in administrative procedures for the acquisition and maintenance of the right to protection of topography, and actions carried out in the appellate procedure shall be subject to the payment of administrative fees and special procedural charges in accordance with special provisions.

(5) If the prescribed administrative fee and special charges are not paid within a prescribed time limit, the application shall be rejected by a conclusion.

(6) Provisions of the Administrative Procedure Act ("Official Gazette of Bosnia and Herzegovina", volumes 29/02, 12/04, 88/07 and 93/09) shall apply to matters not regulated by this Law and implementing regulations.

Article 10
(Filing of an Application for the Protection of Topography)

(1) A procedure for the protection of topography shall be initiated by filing an application for the protection of topography (hereinafter: the application) with the Institute.

(2) The Institute shall not examine whether the applicant is entitled to file the application.

(3) Separate application shall be filed for each topography.

Article 11
(Content of the Application)

(1) The application shall contain a request for the grant of the right to protection of topography and the attachments thereto.

(2) A request for the grant of the right to protection of topography shall contain:

- a) name of topography or specification of the product range;
- b) data identifying the applicant;
- c) data identifying a representative of the applicant, if any;
- d) the date of filing the application;
- e) the date of the creation of topography if topography has not been commercially exploited or the date on which and the place where topography was commercially exploited anywhere in the world for the first time.

(3) A request for the grant of the right to protection of topography shall be accompanied by the following attachments:

- a) description of topography, containing the data defining the electronic function to be performed by the integrated circuit manufactured according to the topography;
- b) graphic representation or representation of topography in another appropriate form identifying the topography, in particular, drawings or photographs of layouts for the production of an integrated circuit according to topography in respect of which protection is applied for;
- c) sample of the integrated circuit manufactured according to topography for which protection is applied for if the integrated circuit has been commercially exploited;
- d) proof of commercial exploitation of topography if topography has been commercially exploited.

(4) The form of an application and the manner of completing thereof, content of the request for the grant of the right to protection of a topography, content of attachments accompanying the request, as well as details of the procedure carried out before the Institute shall be regulated by the provisions for the implementation of this Law, to be enacted by the Institute.

Article 12

(Elements of the Application Not Available to the Public)

(1) The applicant may, when filing the application, request that parts of the attachment referred to in item b) of paragraph (3) of Article 11 of this Law, representing a trade secret, are not made available to third parties, provided that other parts of the mentioned attachment are sufficient to identify the topography.

(2) The court may order disclosure of the parts of the attachment referred to in paragraph (1) of this Article to persons involved in the administrative or judicial procedure concerning the declaration of a decision on the grant of the right to protection of a topography null and void, or infringement of the right to protection of a topography, if it is necessary for the purposes of the procedure.

Article 13
(Examination of the Application)

(1) Upon receipt of the application, the Institute shall examine whether the subject matter of the application is topography within the meaning of paragraph (2) of Article 2 of this Law, and whether the application is filed within the time limit referred to in Article 5 of this Law.

(2) After establishing that the conditions referred to in paragraph (1) of this Article are fulfilled, the Institute shall examine:

a) whether the application is filed through a representative within the meaning of Article 8 of this Law if the applicant is a foreign person;

b) whether a separate application is filed for each topography within the meaning of paragraph (3) of Article 10 of this Law;

c) whether the application contains all the data as are contained in the request for the grant of the right within the meaning of paragraph (2) of Article 11 of this Law, and the attachments within the meaning of paragraph (3) of Article 11 of this Law;

d) whether the administrative fee and special procedural charges have been paid for the application;

e) whether the request for the grant of the right to protection of a topography and the attachments accompanying it have a prescribed content, within the meaning of paragraph (4) of Article 11 of this Law.

(3) If the application is not filed within the time limit referred to in Article 5 of this Law, the Institute shall issue a conclusion on the rejection of the application. An appeal is allowed against the conclusion and will be decided upon by the Board of Appeal.

(4) If, in the examination procedure concerning the application referred to in paragraphs (1) and (2) of this Article, the Institute finds that the subject matter of the application is not the topography within the meaning of paragraph (2) of Article 2 of this Law, and that the application is not filed in accordance with the provision of paragraph (2) of this Article, it shall, within the period of 30 days from the day of filing the application, invite the applicant to correct the found deficiencies, and specify a time limit therefore, which shall neither be less than 30 days nor more than 90 days.

(5) If the applicant fails to correct the deficiencies referred to in paragraph (4) of this Article within the specified time limit, the Institute shall issue a conclusion on the rejection of the application. An appeal is allowed against the conclusion and will be decided upon by the Board of Appeal.

(6) The date of receipt of the correct application by the Institute shall be accorded as the filing date of the application.

(7) The application to which the filing date has been accorded shall be entered in the Register of Applications for the Protection of Topographies, maintained in electronic form by the Institute.

The content and manner of maintaining the Register of Applications for the Protection of Topographies shall be regulated more closely by the implementing regulation.

Article 14
(Grant of the Right to Protection of Topography)

(1) If, in the examination procedure concerning the application referred to in paragraphs (1) and (2) of Article 13 of this Law, the Institute finds that the conditions for the grant of the right are fulfilled, it shall issue a decision on the grant of the right to protection of topography.

(2) The granted right to protection of topography shall be entered in the Register of Rights to Protection of Topographies, maintained in electronic form by the Institute. The content and manner of maintaining the Register of Rights to Protection of Topographies shall be regulated more closely by the implementing regulation.

(3) Upon the entry of the right to protection of topography in the Register, the holder of the right shall be issued a certificate of the right to protection of topography. The content of the certificate of the right to protection of topography shall be regulated more closely by the implementing regulation.

(4) The data contained in the Register of Rights to Protection of Topographies shall be published in the official gazette of the Institute.

Article 15
(Making Available of Topography to the Inspection of the Public)

(1) As of the entry of the right to protection of topography in the Register, any person, on a written request and in the presence of an official person, has the right to inspect the application at the premises of the Institute, and to obtain a copy of the request for the grant of the right to protection of topography and the attachments referred to in items a), b) and d) of paragraph (3) of Article 11 of this Law.

(2) The manner of exercising the right referred to in paragraph (1) of this Article shall be regulated by the implementing regulation.

PART THREE – EXCLUSIVE RIGHTS, LIMITATION, DURATION AND TRANSFER OF RIGHTS

Article 16
(Exclusive Rights)

(1) A holder of the right to protection of topography shall have the exclusive right to allow or prohibit others from:

- a) reproducing a protected topography in whole or the essential parts thereof;
- b) manufacturing an integrated circuit which incorporates protected topography or the essential parts thereof;

c) importing, offering for the purpose of putting into circulation, putting into circulation or otherwise commercially exploiting or importing for such purposes the samples of the protected topography or the essential parts thereof, integrated circuits which incorporate protected topography or the essential parts thereof, as well as products containing an integrated circuit which incorporates protected topography or the essential parts thereof.

(2) During the term of protection of topography, the right holder shall be entitled to mark an integrated circuit manufactured using the protected topography by a capital "T".

Article 17 (Limitation of Rights)

(1) The reproduction of topography shall not be considered to be the infringement of rights referred to in item a) of paragraph (1) of Article 16 of this Law if topography is reproduced:

a) for private use for non-commercial purposes;

b) for the purposes of teaching about topography, as well as for professional analyses or research.

(2) It shall not be considered to be the infringement of rights referred to in Article 16 of this Law if a person, on the basis of analysis or research of the protected topography, creates a topography fulfilling the conditions referred to in Article 4 of this Law, and exploits such a topography in the manner referred to in Article 16 of this Law.

Article 18 (Commercial Exploitation of Protected Topography without Authorization of the Right Holder)

(1) A person who, in the course of acquisition of an integrated circuit, is not aware or has reasonable grounds to believe that the product protected by somebody else's right to protection of topography is concerned shall not be prevented from commercially exploiting such product.

(2) The person referred to in paragraph (1) of this Article shall pay adequate remuneration for the commercial exploitation of protected topography, occurring after that person learns or has reasonable grounds to believe that the product protected by somebody else's right to protection of topography is concerned. The adequate remuneration shall be ordered by the court, unless the parties resolve the dispute by means of negotiations, mediation or any other legally binding manner.

(3) The provisions of paragraphs (1) and (2) of this Article shall also apply to legal successors of the person who acquired an integrated circuit protected by somebody else's right to protection of topography.

Article 19 (Exhaustion of Rights)

The acts referred to in item c) of paragraph (1) of Article 16 of this Law shall not be considered to be right infringement if they relate to a copy of a protected topography or to an integrated circuit incorporating a protected topography that has been first put into circulation in Bosnia and Herzegovina by the holder of the right or by the person having his consent.

Article 20
(Duration of Rights)

(1) The term of the right to protection of topography shall run from the accorded filing date of the application for the registration of topography or from the day of the first commercial exploitation of topography anywhere in the world, whichever date is earlier.

(2) The exclusive right to protection of topography shall expire at the end of the calendar year in which a ten year period, as started on the day of the commencement of the term referred to in paragraph 1 of this Article, expires.

Article 21
(Transfer of Rights and a License)

(1) The right to protection of topography may be transferred in whole or in part on the basis of a transfer agreement or by inheritance.

(2) Some or all of the authorizations arising from the right to protection of topography may, with or without limitations, be assigned on the basis of a licensing agreement.

(3) The agreements referred to in paragraphs (1) and (2) of this Article shall be valid only if they are made in written form.

(4) At the request of one of the contractual parties, the agreements referred to in paragraphs (1) and (2) of this Article shall be entered in the Register of Rights to Protection of Topographies.

(5) The agreements referred to in paragraphs (1) and (2) of this Article shall have effect against third parties only if entered in the Register of Rights to Protection of Topographies.

PART FOUR - DECLARATION OF A DECISION ON THE GRANT OF THE RIGHT TO PROTECTION OF TOPOGRAPHY NULL AND VOID

Article 22
(Authorization to Initiate the Procedure and Reasons for Nullity)

(1) The Institute shall declare a decision on the grant of the right to protection of topography null and void at the proposal of any interested person or State Attorney of Bosnia and Herzegovina or the Ombudsman of Bosnia and Herzegovina or *ex officio* if it finds that at the time of issuing the decision:

- a) the subject matter of protection was not a topography within the meaning of paragraph (2) of Article 2 of this Law;
- b) topography did not fulfill the conditions for protection within the meaning of Article 4 of this Law;
- c) the application was not filed within the time limit referred to in Article 5 of this Law;
- d) the holder of the right to topography did not have the right to protection within the meaning of Articles 6 and 7 of this Law;

e) the attachments referred to in paragraph (3) of Article 11 of this Law did not have the prescribed content, that is, they did not correspond to the topography whose protection was applied for.

(2) The procedure for the declaration of a decision on the grant of the right to protection of topography may be initiated before the Institute during the entire term of protection of topography.

(3) If the submitter of a proposal for the declaration of a decision on the grant of the right to protection of topography null and void abandons his request during the course of procedure, the Institute may continue the procedure *ex officio*.

Article 23
(Limitation of the Effect of Nullification)

The nullification of a decision on the grant of the right to protection of topography shall not have retroactive effect to final court decisions concerning the establishment of the infringement of rights, as well as to concluded agreements on the transfer of rights or ceding of licenses if and to the extent to which such agreements are executed, provided that the holder of right acted in good faith.

PART FIVE - TRANSITIONAL AND FINAL PROVISIONS

Article 24
(Harmonized Application of the Patent Law)

The provisions of the Patent Law governing: authorization for representation, procedure for the declaration of a decision on the grant of rights null and void, filing of an appeal with the Board of Appeal, the proceedings upon appeal, termination of lien rights, execution, bankruptcy, civil protection of rights and customs measures shall apply *mutatis mutandis* to topographies that are subject matters of protection under this Law.

Article 25
(Application of the Law)

The provisions of this Law shall apply only to topographies created after the date on which the application of this Law commences.

Article 26
(Implementing Regulations)

(1) The director of the Institute shall enact implementing regulations for the implementation of this Law within six months from the day of entry of this Law into force.

(2) The implementing regulations within the meaning of paragraph (1) of this Article are: Regulations Concerning the Grant of Topography of Integrated Circuit, Decision on the Specific Costs of the Procedure for the Acquisition and Maintenance of Industrial Property Rights and the Decision on Compensation for the Service on the Board of Appeal.

Article 27
(Entering of the Law into Force)

This Law shall enter into force on the eighth day following the day of its publication in the Official Gazette of Bosnia and Herzegovina, and shall be applied as of January 1, 2011.

Parliamentary Assembly of Bosnia and Herzegovina, No. 516/10
May 28, 2010
Sarajevo

Speaker
House of Representatives
Parliamentary Assembly of Bosnia and Herzegovina
Dr. Milorad Živković, signed

Speaker
House of Peoples
Parliamentary Assembly of Bosnia and Herzegovina
Sulejman Tihić, signed