



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 03/L-165

**ON DETERMINING THE RIGHTS AND PROTECTION OF
TOPOGRAPHIES OF INTEGRATED CIRCUITS**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of Republic of Kosovo,

Adopts:

**LAW ON DETERMINING THE RIGHTS AND PROTECTION OF
TOPOGRAPHIES OF INTEGRATED CIRCUITS**

Article 1

Aim

1. This law regulates the conditions and procedures for registration of rights and protection of topographies of integrated circuits (hereafter referred to as topographies) and enforcement of those rights.
2. Provisions of this law are not valid for issues related to patents and the copyright, by limiting reconstruction of drawings or other artistic presentations of topographies by copying them in two dimensions.

Article 2

Definitions

1. The terms used in this law have the following meanings:

1.1. **IPO** - Industrial Property Office;

1.2. **Integrated circuit** - a product, in its final form or an intermediate form, which realizes execution of an electronic function, where at least one of elements is active and one or all of interconnections are integrally formed in the part of material or from the part of material, which means in the internal or external part of the material;

1.3. **Topography of integrated circuit** - the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and it is interconnected in the integrated circuit, or three-dimensional disposition prepared for an integrated circuit intended for manufacturing;

1.4. **Commercial use of topographies** - production, sale, rental, leasing or any other method of commercial distribution linked directly with topography produced based on the respective topography;

1.5. **Document of transfer** - the transfer of rights or any written document of transfer of rights certified in accordance with the legislation in force.

Article 3 **The right on Protection**

1. The right on protection of topography is guaranteed for all creators.
2. When topography is a product of more than one creator, then the right will be applied in favour of all these creators.
3. Where the topography is created as a result of work of the creator or based on order, the right on protection is guaranteed in favour of the creator's employer or the person who has ordered it with the exemption of cases when the contract provides to the contrary.

Article 4

1. Foreign persons, who seek to protect topography shall enjoy all rights equally as national persons in conformity with international treaties or conventions or based on the principle of reciprocity.
2. Natural and legal persons who do not have the residency or main headquarters of their activity in Kosovo shall be represented by authorized representatives for the industrial ownership and they shall operate through them in all procedures to the IPO.

Article 5
Protection procedures

1. IPO shall issue the rights for registration and protection of topography.
2. The topography shall be registered and protected if it is original.
3. A topography shall be considered original if it is the result of its creator's own intellectual efforts and at the time of its creation is not commonplace in the industry of topographies, when it was created.
4. When topography is composed by common elements in the respective industry, then it shall be protected only the combination of these elements, testing that it meets requirements, related to the originality, in accordance with paragraph 3. of this Article.
5. The procedure of registration and cancellation of the decision for registration of topographies shall be applied by the IPO.

Article 6
Administrative complaint

1. Unsatisfied party has the right to complaint within fifteen (15) days against the Decision of the Office for Industrial Ownership. The complaint shall be submitted to the Committee, which within thirty (30) days following the date of receiving the complaint shall decide and inform the party.
2. The Committee shall be established by the Decision of the Permanent Secretary of Ministry of Trade and Industry.
3. If the Committee does not respond within the determined deadline or the answer is not satisfying the party, the party can initiate an administrative procedure at the Supreme Court of the Republic of Kosovo thirty (30) days.

Article 7
The rights and their limitation

1. The owner of protected topography has the right for commercial use, including the right on authorization or prohibition any of the following acts:
 - 1.1. reproduction of the topography, both the meaning and shape;
 - 1.2. importing, sale or any other form of dissemination of topography or products that include the integrated circuit, which is related with respective topography;

2. Rights outlined in paragraph 1. of this Article are not applied to any concept, process, system, reproduction with the purpose of analysis, for teaching purposes or technical incorporation in the topography, with the exemption of topography itself.

Article 8

1. The topography is considered to be protected when it is registered in the register of topography.

2. IPO shall keep the register of applied topographies and the register of protected topographies and these registers are open for public.

3. The rights of the owner of protected topography shall enter into force in the following dates:

3.1. date of submission of application for protection based on Article 9 of this Law;

3.2. date when respective topography was traded for the first time anywhere in the world.

4. Rights are valid for ten (10) years since the following dates:

4.1. the end of calendar year in which the topography was traded for the first time anywhere in the world;

4.2. the end of calendar year in which the application for protection was submitted in the form as defined by Law.

5. Rights can be lost even before the deadline defined in the paragraph 4 of this Article, if the fees are not paid in accordance with law or the owner of right on protected topography gives up in written form from the protection.

6. If the topography is not used commercially, rights are abolished fifteen (15) years after the date of first fixing or coding if during this period is not submitted any application for registration.

Article 9 Application

1. Procedure for registration of the right on protection begins with an application request to the IPO.

2. Applications in respect of topographies for which protection is sought shall be submitted in the written form to the IPO. An application shall be submitted and filed for each topography.

3. An application shall contain as follows:

- 3.1. the name for topography;
 - 3.2. the name and address of the applicant;
 - 3.3. image of the topography followed by their parts;
 - 3.4 an extract that contains electronic functions or functions of an integrated circuit;
 - 3.5. basic material of the protected topography;
 - 3.6.a written document that verifies the date when the topography was used commercially for the first time;
 - 3.7. the applicant's request may declare material as referred to in this Article, or part of it, as trade secret, the mentioned material is not open for public. This Article shall not be effective when the material is done by court order or other responsible authority, in cases of violation of exclusive rights:
 - 3.8. for each topography shall be submitted a separate application.
4. The application cannot be submitted after a two (2) year period following the date when the topography was used commercially for the first time.

Article 10

Application Examination

1. Each application shall be examined whether it is in compliance with the requirements as defined in Article 9 of this law. If deficiencies in the application are ascertained, the applicant shall be given a period of two months from the date of notification of the IPO to remedy them.
2. Where the deficiencies are remedied within the deadline, the date of receipt of the application at the IPO shall be deemed to be the filing date of the application.
3. Where the applicant fails to remove the deficiencies within the time limit referred to in paragraph 1 above the application shall be deemed to be withdrawn and the IPO shall notify the applicant accordingly and shall take a decision to terminate the procedure.

Article 11

Registration of topographies

1. Where an application meets all requirements referred to in Articles 5 and 9 of this Law, the topography shall be inserted into the Register of Topographies- hereinafter referred to as the Register.

2. The IPO shall issue a certificate of registration in the name of the owner and shall publish the registration in the Official Bulletin IPO. Certificates issued within a certain time period, which period will be assigned with sub-legal act by the Ministry of Trade and Industry.

Article 12

Register of Topographies

1. The IPO shall keep a Register with the following data:

1.1. registration number of the topography;

1.2. date of application and date of registration;

1.3. date and number of the decision for the entry into the register;

1.4. name of the topography;

1.5. data about the applicant;

1.6. data about the creator;

1.7. date of the first commercial use of the topography, if the topography has already been commercially exploited;

1.8. data about the authorized representative, if any;

1.9. data on changes related to the transfer of rights, licensing, declaration of cancellation, expiration date of the protection, relevant changes for the legal status of the registered topography.

2. The Register is a public document, where any person may request information or an extract from the contents of the Register.

Article 13

Invalidity of registration

1. Registration is invalid if:

1.1. the respective topography is not original;

1.2. application is not deposited by a natural or legal person, who is authorized for the rights of protection;

1.3. images and material related to the topography do not make possible its identification.

2. Procedure for declaring the invalidity of registration can be issued by Office for the IPO according to the official duty or proposal of the interested party, prosecutor based on the foreseen conditions in this Article.

Article 14 Marking

During the extension of rights of the protected topography, the bearer of registered topography has the right to mark the produced product of the registered topography with letter “T”.

Article 15 Change of the name and address of the owner

1. The owner of the rights in topography is obliged to notify the IPO of any change of his/her name and address.
2. Changes shall be entered in the Register.

Article 16 Transfer of Rights of the Topography

1. Rights in topographies can be transferred to the third persons.
2. On request of one of the parties, the transfer shall be entered in the Register and published in the Official Bulletin of the Office. The request shall be accompanied by a document of transfer.
3. When the topography is jointly owned, the rights may be transferred with the written consent of all co-owners, unless otherwise agreed between them.
4. The transfer of topography right shall be effective with respect to third parties after it has been entered in the Register.

Article 17 Licensing

1. The owner of a protected topography may permit its use by granting a license.
2. When topography is jointly owned, a license shall be issued with the written consent of all co-owners, unless otherwise agreed between them.

3. On request of one of the parties the issue of a licence shall be entered in the Register and published in the Official Bulletin of the IPO. The request shall be accompanied by an extract from the license contract.

4. The licensing shall have effect with respect to third parties after the license has been entered in the Register.

Article 18

Topography Fees

1. The acquisition of rights in topography, transfer of rights of licenses or of any other changes in the legal status of the protected topography and their publication in the Official Bulletin of the IPO, access to the files or to the Register of Topographies, or other services provided by the IPO related to the topographies shall be subject to payment of charges in compliance with fees.

2. The Minister of Trade and Industry upon the proposal of IPO issues sub-legal act that determines the fees for topography defined in paragraph 1 of this Article.

Article 19

Judicial protection

1. A Holder of the protected topography right, that has been infringed, in addition to the request for compensation of damages, may claim measures to prevent further infringement of his exclusive rights.

2. A natural or legal person infringing the rights conferred by the protected topography shall be liable to compensate for the damage incurred, in accordance with the general principles on the compensation for damages.

3. The provision referred to in paragraph 1 of this Article shall apply to the Holder's legal successors of protected topography right.

Article 20

Punitive Provisions

1. The person whose rights are violated based on damage caused to him/her can require that the person who has caused such damages to be responsible for that action.

2. The amount of compensation for damage is determined upon the agreement between the owner of the rights of protected topography and the person who has caused that damage.

3. If such agreement cannot be reached, the punitive provisions of law in force shall be applied.

Article 21
Transitional provisions

For the purpose of implementation of this law, the Ministry of Trade and Industry issues sub-legal acts.

Article 22
Entry into force

This law shall enter into force fifteen (15) days after the publication in the Official Gazette of the Republic of Kosovo.

Law No. 03/L-165
10 June 2010

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI