

WORLD TRADE ORGANIZATION

ORGANISATION MONDIALE DU COMMERCE

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/ROM/L/1

18 March 1997

(97-1112)

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

Original: English/
anglais/
inglés

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

Romania

The present document reproduces¹ the text of the Law on the Protection of Topographies of Integrated Circuits, No. 16, of 6 March 1995, as notified by Romania under Article 63.2 of the Agreement (see document IP/N/1/ROM/1).

**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**

Roumanie

Le présent document contient le texte de la Loi n° 16 du 6 mars 1995 sur la protection des topographies de circuits intégrés¹, notifiée par la Roumanie au titre de l'article 63.2 de l'Accord (voir le document IP/N/1/ROM/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**

Rumania

En el presente documento se reproduce¹ el texto de la Ley de la Protección de las Topografías de los Circuitos Integrados, N° 16, de 6 de marzo de 1995, notificada por Rumania en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/ROM/1)

¹English only/anglais seulement/inglés solamente.

ROMANIA

Law on the Protection of Topographies of Integrated Circuits (No 16 of March 6, 1995)*

CONTENTS**

	Articles
Chapter I: Subject-matter of protection .	1 to 5
Chapter II: Right to protection	6 to 11
Chapter III: Registration	12 to 18
Chapter IV: Rights	19 to 29
Chapter V: Transfer of rights	30 to 35
Chapter VI: Exhaustion of rights	36 to 39
Chapter VII: Defense of rights	40 to 43
Chapter VIII: Fees	44 to 47
Chapter IX: Final Provisions	48 to 49

Romanian title: Lege privind protecția topografiilor circuitelor integrate

Entry into force: June 9, 1995

Source: Monitorul Oficial al României, of March 9, 1995, No 45, pp.1 to 5; English translation by the State Office for Inventions and Trademarks

** Added by the State Office for Inventions and Trademarks

Law on the Protection of Topographies of Integrated Circuits

Chapter I Subject-matter of protection

Article 1

Topographies of integrated circuits shall be protected in Romania by registration with the State Office for Inventions and Trademarks according to the provisions of this law.

Article 2

For the purposes of this law *integrated circuit* means a product in its final form or in an intermediate form comprising a set of active and passive components, interconnections included, which belong integrally or partially to the body or to the surface of a piece of material, said product being intended to perform an electronic function

For the purposes of this law *topography of an integrated circuit* hereinafter referred to as *topography* means a three – dimensional disposition – however expressed – of certain elements of an integrated circuit, at least one of which is active, and of all or some interconnections of the integrated circuit or such a three – dimensional disposition prepared for the manufacturing of the integrated circuit.

Article 3

Original topographies shall be protected under this law Topographies shall be deemed original if they are the result of an intellectual effort made by their creators and if they are not commonplace among the creators of topographies and manufacturers of integrated circuits, at the time of their creation

A topography made up of a combination of commonplace elements and interconnections may be protected only if the whole combination is original as provided by paragraph 1

Article 4

The right of the proprietor of a protected topography over the integrated circuit shall not depend on whether the circuit is incorporated or not in a product.

Article 5

The rights over a protected topography shall apply neither to the technological projects, processes and means involved in making a topography or an integrated circuit nor to the information stored by the integrated circuit

Chapter II Right to protection

Article 6

Romanian natural and legal persons as well as foreign natural persons having their domicile in Romania and foreign legal persons having places of business in Romania shall benefit by the protection of a topography according to the provisions of this law.

Foreign natural and legal persons having their domicile or places of business abroad shall benefit by the provisions of this law in the conditions provided by the international conventions where Romania is a party or, where there are no such conventions, on a mutual basis.

Article 7

The person entitled to the legal protection of a topography may be represented before the State Office for Inventions and Trademarks by a professional representative

Foreign natural and legal persons having their domicile or place of business abroad shall be represented by a professional representative compulsorily, this representative shall have his domicile or place of business in Romania

Article 8

The right to the protection of the topography of an integrated circuit shall belong to the creator of the topography or to his successor in title Where there are several creators, as joint authors, the rights shall belong to them jointly.

Article 9

Where the topography has been created by an employee in the course of his duties, the right to the protection of the topography shall belong to the enterprise where the creator of the topography is employed

Where the topography has been created as result of an order placed by a natural or legal person, the right to the protection of that topography shall belong to the person who ordered it

Where there are contract provisions contrary to the provisions in the above – mentioned paragraphs, it is the contract provisions that shall prevail.

Article 10

Where a topography has been exploited commercially, in Romania or abroad, such topography shall be protected according to this law if the application for registration is filed at the State Office for Inventions and Trademarks within a time limit of two years from the date of the first commercial exploitation

Article 11

Where a topography has not been exploited commercially for fifteen years since it was created or coded first, the right to protection shall cease in the following cases:

a) if the topography has not been registered it may no longer be the subject – matter of an application for registration,

b) if the topography has been registered , the rights conferred by registration become extinct

Chapter III **Registration of topographies**

Article 12

The registration of a topography shall depend on the regular filing of an application for registration at the State Office for Inventions and Trademarks.

An application for registration shall have as subject – matter only one topography; a topography shall be registered only once.

Article 13

An application for registration shall be deemed as having been regularly filed if the following documents are filed:

- a) written request for the registration of the topography specifying at least
 - creator's (creators') full name and address;
 - applicant's full name or designation and address where the applicant differs from the creator of the topography,
 - indications with respect to the applicant's right to register the topography,
 - designation and destination of the integrated circuit to be manufactured by using the topography;
 - date of creation or of the first coding of the topography,
 - date of the first commercial exploitation of the topography where appropriate,
 - full name or designation and address of the professional representative, where appropriate,
 - applicant's signature or that of his professional representative, where appropriate,
- b) technical documentation comprising graphical materials and texts providing sufficient information for the identification of the topography and for pointing out the electronic function of the integrated circuit incorporating the topography;
- c) two copies of the integrated circuit, if it was manufactured and exploited commercially;
- d) power of attorney, for the professional representative (where appropriate),
- e) receipt of payment of fees provided in article 44 let a) - e)

All the above - mentioned documents shall be typed in Romanian and filed as such

Article 14

The State Office for Inventions and Trademarks shall examine whether the applications for the registration of topographies meet the legal requirements for regular filing; where the requirements are met, the Office shall register the topography in the National Register of Topographies and shall publish the topography as provided in Article 17 and shall also issue a certificate of registration within three months as from the official date of regular filing

The official date of regular filing shall be the date when the application is filed

Article 15

Where, upon examining the application, deficiencies are found in relation to the documents specified by Article 13, the applicant shall be notified in writing within 15 days from the date of filing and shall be given two months for necessary remedies

Where all the remedies have been made within the prescribed time limit, the State Office for Inventions and Trademarks shall follow the procedure provided by Article 14

Then, the official date of regular filing shall be the date when all the necessary rectifications and completions are received.

Where the necessary rectifications and completions have not been submitted within the given time limit, the application shall be refused and the ground of refusal shall be made known to the applicant in writing

Article 16

A refusal of the application for the registration of a topography may be contested by administrative means, at the Director general of the State Office for Inventions and Trademarks within three months since communication; the notice of appeal is examined within two months from filing. The decision taken by the director of the State Office for Inventions and Trademarks is transmitted to the interested parties within one month and

may be appealed at the Law Court of Bucharest within three months from the date of the communication

Article 17

The registration of the topographies shall be published in the Official Bulletin of the State Office for Inventions and Trademarks within two months from the date when the registration certificate has been issued

The proprietor shall be obliged to inform the State Office for Inventions and Trademarks, in the shortest time available, of any changes in the name of the applicant or of his representative. The Office shall make the necessary changes in the National Register of Topographies and shall publish them within three months from the date when the communication has been received.

Article 18

The documents which were regularly filed may be laid open to public inspection at the State Office for Inventions and Trademarks after the publication of the registration.

Documents comprising information declared as trade secret by the applicant shall not be made available to the public

Chapter IV Rights

Article 19

A topography of an integrated circuit registered at the State Office for Inventions and Trademarks shall be protected throughout the territory of Romania over a period starting with the official date of registration of the topography or with the date of the first commercial exploitation of the topography, whichever earlier, and ending with the last day of the tenth calendar year following the year when the period of protection started

Article 20

The proprietor of a registered topography shall have over the whole period of protection, the right to exploit the topography as well as the right to allow or to forbid other persons to exploit the topography

Article 21

The proprietor shall have the right to mark the integrated circuits manufactured on the basis of the protected topography, by using a capital "T"

Article 22

For the purposes of this law, *exploitation of a topography* shall mean:

a) reproduction of the topography, as a whole or a part of it, except those parts which are not original according to the provisions of Article 3, either by incorporating it in an integrated circuit or by other means;

b) importation, sale or distribution in every manner, for commercial purposes, of the topography or of the integrated circuit incorporating it

Article 23

Creators of topographies shall have the right to have their name and capacity as creators mentioned in the certificate of registration and in the texts concerning the registered topographies published by the State Office for Inventions and Trademarks.

Article 24

Creators of topographies who are not proprietors according to Article 9 shall have the right to a compensation which is established by a contract concluded between them and the proprietors of the protected topography

Article 25

The reproduction of the topography by a third party, according to the provisions of Article 22 lett a) shall not be deemed an infringement if.

- a) it has been carried out in private, without any commercial purposes,
- b) it has been made for the purposes of evaluation, analysis, research or teaching

Article 26

Every person who, starting from the evaluation or analysis of a protected topography creates a new topography which fulfils the condition of originality provided by Article 3 shall have the right to exploit the new topography; such action shall not be deemed an infringement of the rights of the proprietor of the first topography

Article 27

The exploitation of a topography according to Article 22 lett b) by a person who has purchased the integrated circuit in good faith without knowing possibly that said integrated circuit incorporated a protected topography which was reproduced illegally shall not be deemed an infringement of the rights of a proprietor of topography

Starting from the date when that person has learned that the topography was protected, said person shall no longer have the right to purchase similar integrated circuits without proprietor's authorisation but will be permitted to further exploit commercially the integrated circuits that were purchased or contracted before that date, against payment of fair compensation to the proprietor

Article 28

Where the protected topography or the integrated circuit incorporating it have been sold by the proprietor of the topography himself or with his authorisation, no exploitation of it by a third party shall be deemed an infringement of the proprietor's rights

Article 29

Every person who, previous to the date of entry into force of this law, has manufactured or certified for production an integrated circuit the topography of which was later registered with the State Office for Inventions and Trademarks by another person, shall have the right to manufacture and sell that circuit, this action shall neither be deemed an infringement of the proprietor's rights nor be assimilated to the rights conferred by the registration of the topography

Chapter V Transfer of rights

Article 30

The right to protection as well as the rights deriving from the registration of a topography shall be transferred in whole or in part by assignment or by legal or testamentary succession

Article 31

The rights conferred by the registration of a topography shall be transferred by grant of exclusive or non-exclusive licenses

Article 32

The transfer of rights provided by Articles 30 and 31 shall have effects for third parties starting with the date when it has been registered with the State Office for Inventions and Trademarks

Article 33

The Law Court of Bucharest may grant a non-voluntary license of exploitation to those persons who despite their efforts have not been able to get the proprietor's authorisation to exploit a protected topography where:

a) the grant of a license is necessary in states of emergency as far as national defense and security are concerned or for the prevention or elimination of the effects of natural disasters, or when infringement of the competition law or non – observance of the national standards concerning environmental pollution occurs

b) minimum four years have passed since the beginning of the period of protection and the topography has not been commercially exploited in the territory of Romania

Non-voluntary licenses are non-exclusive and may only be transferred with the assets needed for their application

Voluntary licenses shall be notified to the State Office for Inventions and Trademarks which writes them in the National Register of Topographies

The owner of a voluntary license shall pay a reasonable compensation to the rightholder

Article 34

Every voluntary license may be revoked by the Law Court of Bucharest, upon the rightholder's request where the conditions provided by Article 33 par 1 lett a) and b) have ceased to exist

Article 35

The State Office for Inventions and Trademarks shall publish in its official bulletin all the assignments and licenses registered in respect of the protected topography as well as the changes thereupon, within three months since registration

Chapter VI

Exhaustion of rights

Article 36

The rights conferred to the proprietor by the registration of the topography shall come to an end upon the expiry of the period of protection, when the topography enters the public domain and can be exploited by every person without any restrictions

The rights of the proprietor shall come to an end before the expiry of the period of protection if the conditions provided by Article 11 let b) are fulfilled

Article 37

The proprietor may renounce the protection of a registered topography any time during the period of protection; the renunciation results in the exhaustion of the proprietor's rights, having all the consequences mentioned in Article 36 par.1 starting

with the date of registration at the State Office for Inventions and Trademarks or the date of the declaration of renunciation.

Article 38

The registration of a topography in the National Register of Topographies may be cancelled, in whole or in part, upon the request of a third party where the legal conditions for the grant of protection have not been fulfilled. The request of cancellation may be filed during the whole period of protection of the topography and is solved by the Law Court of Bucharest.

The cancellation results in the revocation of the rights over the topography or, where appropriate, over that part of the topography that was cancelled retroactively, starting with the first day of protection conferred by registration.

Article 39

The State Office for Inventions and Trademarks shall write in the National Register of Topographies all the changes concerning the protection of topographies resulted from the application of the provisions of Articles 36 - 38 and shall publish them in its official bulletin.

Chapter VII Defense of rights

Article 40

Infringement of the proprietor's rights by the exploitation of a registered topography without proprietor's authorisation shall be deemed an infringement or, where appropriate, a sale of counterfeit goods and is punished by imprisonment from three months to three years or by fine from 500,000 to 1,000,000 lei. Prosecution shall be initiated upon the complaint of the injured party.

The proprietor shall be entitled, for prejudice caused to him, to damages as provided for in civil law, and the counterfeit products may be confiscated as provided for in criminal law.

Article 41

Disputes concerning authorship or ownership or the rights deriving from the registration of topographies – creators' patrimonial rights included – or from assignment or license contracts shall be settled by the law courts.

Article 42

Where the final and irrevocable decision of the law court states that a person, other than the owner of a certificate for registration, is entitled to the protection of the topography, the State Office for Inventions and Trademarks shall issue the certificate of registration to the entitled person, shall write the change concerning the owner in the National Register of Topographies and shall publish it in its official bulletin.

Article 43

If the rights over a registered topography have ceased to exist over a certain period of time as a result of the renunciation to the protection, of the forfeiture or of the cancellation of the registration, the compensations and the other patrimonial rights of the owner, corresponding to the above – mentioned period, shall be returned by him to the persons from whom he has got them.

Chapter VIII Fees

Article 44

The protection of the topographies of integrated circuits as well as the activities and services carried out by the State Office for Inventions and Trademarks as far as topographies are concerned shall be subject to the payment of the following fees.

	Lei	US dollars
a) filing an application for the registration of a topography	60,000	30
b) examination of an application for the registration of a topography	400,000	200
c) registration of a topography	3,400,000	1,700
d) printing of the registration of a topography	30,000	15
e) issue of a certificate of registration	30,000	15
f) examination of an opposition according to Article 16 .	200,000	100
g) registration and printing of an assignment or license	200,000	100
h) registration and printing of a change concerning the owner, the professional representative, assignment, license	50,000	25
i) inspection of the public documents in the regular filing	20,000	10
j) issue of a certified copy of the regularly filed public documents or of pages of the National Register of Topographies, each page	20,000	10

The creators of topographies, either applicants or proprietors, who have yearly gross proceeds of up to 10,000,000 lei and who have not transferred the right of exploitation of the topography, shall pay 5% of the amount of fees provided by paragraph 1

Public institutions as well as trade companies which have a gross profit less than 50,000,000 lei per year and less than 200 employees and which have not transferred the right of exploitation of the topography shall pay 50% of the amount of fees provided by paragraph 1.

Pupils, students and soldiers, as creators of topographies are exempt from the payment of the fees provided by paragraph 1 both individually and in teams made exclusively of these categories of persons as long as they have this status, for all the procedures carried out during the period they maintain that status.

Article 45

Fees provided by Article 44 shall be paid to the account of the State Office for Inventions and Trademarks and shall be considered as contribution to the state budget. The Government shall update the amount of fees and the income ceiling in lei regularly, depending on the evolution of inflation

The amounts representing the fees shall be transferred by the State Office for Inventions and Trademarks to the state budget according to the methodology set by the Ministry of Finance

Foreign natural and legal persons shall pay fees in hard currency Foreign natural and legal persons who have companies registered in Romania shall pay in lei

Article 46

Fees provided by Article 44 shall be paid in advance. Lack of payment shall result in the refusal of the requested service or activity, with all the effects possible according to the law

Article 47

Fees provided by Article 44 shall be returned to the payer upon his request, where the activities they were paid for, have not been initiated, except those provided by lett a) and b) where no money is returned

Chapter IX Final Provisions

Article 48

The Romanian Government shall issue the Implementing Regulations concerning the Registration of the Integrated Circuits, according to the provisions of this law The Implementing Regulations shall enter into force alongside with this law

Article 49

This law shall enter into force three months after the date of its publication in the Romanian Official Gazette
