



# Ordinance Implementing the Semiconductor Protection Act (Semiconductor Protection Ordinance)<sup>1</sup>

of 11 May 2004

(Federal Law Gazette<sup>2</sup> I p. 894)

last amended by Article 5 of the ordinance of 17 December 2004  
(Federal Law Gazette I p. 3532)

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<sup>1</sup> Halbleiterschutzverordnung

<sup>2</sup> Bundesgesetzblatt

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## **Part 1**

### **General provisions**

#### **Section 1**

##### **Scope of application**

In addition to the provisions of the Semiconductor Protection Act (*Halbleiterschutzgesetz*) and the Ordinance Concerning the German Patent and Trade Mark Office (*DPMA-Verordnung*) the provisions of this ordinance shall apply to topography applications.

#### **Part 2**

### **Application of a topography**

#### **Section 2**

##### **Filing of the application**

- (1) The written application shall contain
  1. the request for registration of protection (Sec. 3(2) nos. 1, 3 and 4 Semiconductor Protection Act),
  2. material identifying or illustrating the topography (Sec. 3(2) no. 2 Semiconductor Protection Act).
- (2) The application for the registration of topography protection shall be filed using the form issued by the German Patent and Trade Mark Office.

#### **Section 3**

##### **Request for registration of protection**

- (1) In order to maintain the filing date, the request for registration of protection shall contain:
  1. a declaration requesting registration of protection of the topography;
  2. a clear and concise designation of the topography. The name or the product designation of the topography specifying the product range may be indicated as designation;
  3. the date of the day of first commercial exploitation, other than confidential, of the topography, where such day is earlier than the application (Sec. 3(2) no. 3 Semiconductor Protection Act);
  4. details of the intended use, if the possibility of the topography being a state secret is considered (Sec. 93 Criminal Code [*Strafgesetzbuch*], Sec. 3(2) no. 2 Semiconductor Protection Act);
  5. the following information on the applicant:
    - a) if the applicant is a natural person, the given name and the family name or, if registration is sought under the trade name of the applicant, the trade name as recorded in the Commercial Register;

- b) if the applicant is a legal entity or a partnership, the name of this entity or partnership; the usual abbreviation of the legal form can be used. If the legal entity or partnership is registered in a register, the name shall be indicated in a form corresponding to that of the register entry. In case of a partnership under the Civil Code (*Gesellschaft bürgerlichen Rechts*), the name and the address of at least one partner entitled to act as representative shall be indicated;

it shall be made clear whether the topography protection is sought on behalf of one or more than one individual or partnership, for the applicant under the trade name or under the civil name;

- c) the residence or principal place of business and the address (street and house number, postal code, town);
  6. if a representative has been appointed, their name and their address;
  7. the signatures of all applicants or their representative.
- (2) If the residence or principal place of business of the applicant is not in Germany, the applicant shall also indicate the country in addition to the town when indicating the address under subsection (1) no. 5 item c). Furthermore, the applicant may also indicate the district, county or state where they have their residence or principal place of business or whose legal order they are subject to.
  - (3) If the German Patent and Trade Mark Office has assigned an applicant's number to the applicant, this number should be indicated in the application.
  - (4) If the German Patent and Trade Mark Office has assigned a representative's number or the number of a general power of attorney to the representative, this number should be indicated.
  - (5) The request for registration of protection shall moreover contain (Sec. 3(2) no. 4 Semiconductor Protection Act):
    1. in respect of natural persons the nationality of the applicant or, unless they are a national of a Member State of the European Economic Community, the habitual residence of the applicant;
    2. in respect of companies the town of the establishment;
    3. where the applicant owns an exclusive right to commercial exploitation of the topography in the European Economic Community, the date of the day of first commercial exploitation, other than confidential, of the topography in the European Economic Community, where such day is earlier than the application (Sec. 2(4) Semiconductor Protection Act);
    4. in case of a transfer of title (Sec. 2(5) Semiconductor Protection Act), relevant indications.

- (6) If the applicant wants to mark parts of the material as trade or business secrets, the request for registration of protection may contain the relevant indications (Sec. 4(3) Semiconductor Protection Act).

#### **Section 4**

##### **Material for identification or illustration**

- (1) To identify or illustrate the topography, the following material shall be filed:
1. drawings or photographs of layouts for the manufacture of the semiconductor product,
  2. drawings or photographs of masks or parts thereof for the manufacture of the semiconductor product, or
  3. drawings or photographs of single layers of the semiconductor product.
- (2) In addition to the material referred to in subsection (1), data carriers or printouts thereof, or the semiconductor product for whose topography protection is requested, or an explanatory description may be filed.

#### **Section 5**

##### **Trade or business secrets**

If material is marked as trade or business secret, the parts so marked in the application shall be filed separately from the other parts. The material may also be filed in one original copy and a further copy with obliterated parts; the original copy shall be available for the inspection of files in cancellation proceedings or lawsuits concerning the validity or infringement of topography protection (Sec. 4(3), first sentence, Semiconductor Protection Act), the second copy for general inspection.

#### **Section 6**

##### **German translations**

- (1) German translations of documents forming part of the documentation relating to the application shall be certified by a lawyer or patent attorney or be done by an officially authorised translator. The translator's signature shall be officially certified (Sec. 129 Civil Code [*Bürgerliches Gesetzbuch*]) and it shall also be certified that they are officially authorised for such purposes.
- (2) German translations of documents
1. not forming part of the documentation relating to the application and
  2. filed in English, French, Italian or Spanish
- shall be subsequently furnished only upon invitation by the German Patent and Trade Mark Office.

- (3) If foreign-language documents not forming part of the documentation relating to the application are filed in languages not mentioned in subsection (2) no. 2, German translations shall be filed subsequently within one month after receipt of the documents.
- (4) The translation under subsection (2) or (3) shall be certified by a lawyer or patent attorney or done by an officially authorised translator. If the translation is not filed in due time, the foreign-language document shall be deemed to have been received on the date of receipt of the translation.

### **Part 3**

#### **Final provisions**

##### **Section 7**

##### **Transitory regulation on occasion of the entry into force of this ordinance**

For topography applications filed before the entry into force of this ordinance, the provisions of the Semiconductor Protection Application Ordinance (*Halbleiterschutzanmeldeverordnung*) of 4 November 1987 (Federal Law Gazette I p. 2361), amended by Article 24 of the act of 16 July 1998 (Federal Law Gazette I p. 1827), shall apply.

##### **Section 8**

##### **Transitory regulation for future amendments**

For topography applications filed before the entry into force of amendments to this ordinance, the provisions of this ordinance in the version applicable until that date shall apply.

##### **Section 9**

##### **Entry into force; abrogation**

This ordinance shall enter into force on 1 June 2004. At the same date, the Semiconductor Protection Application Ordinance of 4 November 1987 (Federal Law Gazette I p. 2361), amended by Article 24 of the act of 16 July 1998 (Federal Law Gazette I p. 1827), shall be abrogated.