Ordinance Implementing the Semiconductor Protection Act
(Semiconductor Protection Ordinance)\textsuperscript{1}
of 11 May 2004
(Federal Law Gazette\textsuperscript{2} I p. 894)
last amended by Article 6 of the ordinance of 12 December 2018
(Federal Law Gazette I p. 2446, 2449)

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\textsuperscript{1} Halbleiterschutzverordnung
\textsuperscript{2} 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
Format of the application

(1) The application for the topography shall be filed in writing with the German Patent and Trade Mark Office.

(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
Application for the topography

(1) In order to maintain the filing date, the application 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 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 names and names or, if registration is sought under the trade name of the applicant, the trade name as recorded in the Commercial Register as well as the address of the residence or the principal place of business indicating the street, house number, postcode and town,
   b) if the applicant is a legal entity or a partnership:
      aa) the name or trade name, legal form as well as address indicating the street, house number, postcode and town where the principal place of business is located; the usual abbreviation of the legal form can be used; if the legal entity or partnership is registered in a register, the details shall correspond to the register entry;
      bb) in case of a partnership under the Civil Code (Gesellschaft bürgerlichen Rechts), in addition, the name and the address, indicating the street, house number, postcode and town, of at least one partner entitled to act as representative;
6. information on the representative, if any;
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 country in addition to the town shall be indicated when indicating the address under subsection (1) no. 5. Further information on the district, county or state where the applicants have their residence or principal place of business or whose legal order they are subject to is optional.

(3) If the German Patent and Trade Mark Office has assigned a code number to the applicant, this number should be indicated in the application. In the application, a postal address differing from the applicant's address may also be provided as well as a P.O. box address, telephone numbers, fax numbers and e-mail addresses.

(4) If the application is filed by several persons or partnerships, subsection (1) no. 5 and subsections (2) and (3) shall apply to all persons or partnerships filing the application.

(5) Where a representative has been appointed, subsection (1) no. 5 and the subsections (2) and (3), second sentence, shall apply mutatis mutandis to the information on the representative. If the German Patent and Trade Mark Office has assigned a code number or the number of a general power of attorney to the representative, this number should also be indicated.

(6) The request for registration of protection shall moreover contain (Sec. 3(2) no. 4 Semiconductor Protection Act):

- 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;
- in respect of companies the town of the establishment;
- 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);
- in case of a transfer of title (Sec. 2(5) Semiconductor Protection Act), relevant indications.
(7) 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**

**Foreign-language documents**

(1) German translations of foreign-language documents shall be certified by a lawyer or patent attorney or be done by an officially authorised translator.

(2) German translations of documents

1. not forming part of the documentation of 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. The German Patent and Trade Mark Office will fix a reasonable time limit for the subsequent filing.

(3) If documents not forming part of the documentation of the application are filed in languages not mentioned in subsection (2), first sentence, no. 2, German translations shall be filed subsequently within one month after receipt of the documents.

(4) The translation within the meaning of subsections (2) and (3) is filed after expiry of the time limit, the foreign-language document shall be deemed to have been received on the date of receipt of the translation. If no translation is submitted, the foreign-language document shall be deemed not to have been received.

**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.