

## THE IMPLEMENTING REGULATIONS UNDER THE LAW NO 5147 PERTAINING TO THE PROTECTION OF INTEGRATED CIRCUIT TOPOGRAPHIES

|  |    |
|--|----|
| PART ONE – Object, Scope, Legal Foundation and Definition .....  | 2  |
| Object.....  | 2  |
| Scope .....  | 2  |
| Legal Foundation.....  | 2  |
| Definitions.....   | 2  |
| SECTION TWO – Conditions and Persons Entitled to Protection .....  | 3  |
| Conditions.....  | 3  |
| Persons Entitled To Protection .....   | 3  |
| SECTION THREE – Filing Requirements and examining the application .....  | 3  |
| Application Authority and date.....  | 3  |
| Application petition and the information and documents included.....   | 3  |
| Formal Examination and Becoming Definite of the Application Date.....  | 5  |
| Remedying the deficiencies and Becoming Definite of the Application Date .....   | 5  |
| SECTION FOUR – Registration, Publication, Opposition .....   | 5  |
| Registration and Publication .....   | 5  |
| Opposition .....   | 6  |
| Examination of Appeals .....   | 6  |
| SECTION FIVE – Changes concerning the address, Title, the Characteristics of the Firm, merger,<br>transfer by inheritance, Pledge and License..... | 6  |
| Changes concerning the address, Title, the Characteristics of the Firm and merger.....   | 6  |
| Transfer .....   | 7  |
| Transfer by Inheritance.....   | 7  |
| License .....  | 7  |
| Levy .....   | 8  |
| Rearrangement of the Registration Certificate .....  | 8  |
| SECTION SIX – Fee, Certified Copy, Registry .....  | 8  |
| Fee .....  | 8  |
| Certified Copy of Registration Certificate.....  | 8  |
| Registry .....   | 9  |
| SECTION SEVEN-Termination of the Right, Effect of the Invalidity, Compulsory License and Usage fee   | 9  |
| Termination of the right .....   | 9  |
| Surrender of a Right .....   | 9  |
| Effects of Invalidity .....  | 9  |
| Compulsory License and Usage fee .....   | 10 |
| SECTION EIGHT .....  | 10 |
| Last Provisions .....  | 10 |
| Entry into Force .....   | 10 |
| Execution .....  | 10 |

## THE IMPLEMENTING REGULATIONS UNDER THE LAW NO 5147 PERTAINING TO THE PROTECTION OF INTEGRATED CIRCUIT TOPOGRAPHIES

### PART ONE – Object, Scope, Legal Foundation and Definition

#### Object

**Article 1** — The object of this Regulation is to specify the procedures and the rules to be followed regarding the Protection of Integrated Circuit Topographies.

#### Scope

**Article 2** — this Regulation encompasses the principles and the rules to be followed concerning the time and place of filing and the preparation of the application documents, register and other matters related.

#### Legal Foundation

**Article 3** — This regulation has been prepared based on the provisions of The Law No 5147 Pertaining to the Protection of Integrated Circuit Topographies dated 22/04/2004.

#### Definitions

**Article 4** — For the purposes of this Regulation;

Institute: Turkish Patent Institute,

Law: Law pertaining to the protection of Integrated Circuit Topographies

Integrated Circuit: An intermediate or final product, designed for performing an electronic function or other similar functions, having at least one active element and some or all of the interconnections of which have been combined in and/or on a piece of material;

Integrated Circuit Topography: The series of images that represent the three-dimensional sequence of layers embodying the integrated circuit and that has been prepared for production purposes, and fixed in any format and every image shall mean the entire or partial layout of the surface of integrated circuit at any stage of its manufacture.

Register: Register of Integrated Circuit Topographies,

Bulletin: Bulletin that the Integrated Circuit Topography has been published.

Circular: the Circular of Fees to be administered by the Turkish Patent Institute in accordance with Articles 6/2-f and 25 of the Decree-Law no 544.

## SECTION TWO – Conditions and Persons Entitled to Protection

### Conditions

**Article 5** — Protection shall be granted to a topography which has an original nature provided that the conditions in the Law and this regulation are met and the prescribed fee in Circular is paid.

### Persons Entitled To Protection

**Article 6** — The Protection conferred by this law is available to nationals of Republic of Turkey, natural and legal persons residing in Turkey and performing industrial or commercial activities and the persons having the right of application under the provisions of the related international conventions.

Natural or legal persons other than those referred to in the first paragraph of this present Article, who are nationals of the States which accord legal or de facto protection to the nationals of the Republic of Turkey shall enjoy, according to the reciprocity principle, this protection in Turkey.

Registration or reporting the registration in writing of Integrated circuit topography of the citizens of Republic of Turkey by the other countries shall be regarded as the principle of reciprocity.

## SECTION THREE – Filing Requirements and examining the application

### Application Authority and date

**Article 7** — all the applications based on the Law should be filed with the petition includes the information and documents mentioned in Article 8 of this regulation before the Turkish Patent Institute.

Application date is the date, hour and minute that the filing documents are received by Institute.

### Application petition and the information and documents included

**Article 8** — applicant or his attorney will submit the petition as in Appendix 1 to the Institute.

Application includes the following information and documents:

a) name, surname and the address of the applicant

b) A complete set of overlay sheets, drawings or photographs of the topography and a description of the nature or function of the topography.

If the copies or the drawings are clear enough to recognition of the Integrated Circuit Topography then no need to submit the copies or the drawing of parts regarding the production.

Drawings should be submitted in A4 size. Large-scale drawings, plans or photographs must be folded in A4 norm facing. If this is not possible then drawings should be brought to the rolls, but rolls cannot be longer than 1.5 meters and thicker than 15 centimeters in size.

c) An abstract including the brief description of the Integrated circuit topography in written.

In abstract, the names used in topography or products containing the topography, different features of the topography from the others are included.

The abstract serves only the purpose of supplying technical information and doesn't affect the scope of the protection and preferably shall be 100 words.

Block diagram, circuit diagram and similar diagrams may be submitted to clarify the electronic function of the Integrated Circuit Topography.

d) The date of the first commercial use of the Integrated Circuit Topography or declaration on it has not been used

e) Receipt showing the payment of the application fee published in Circular,

f) Power of Attorney if an agent is appointed

For the withdrawal of an application, the authority for withdrawal must be clearly specified in the power of attorney and notarized.

Those who are not domiciled in Turkey have to appoint a patent agent who is recorded in the Registry of Agents.

With respect to the registration applications or requests related with procedural matters after registration made by persons unauthorized to act before the Institute, the applicant shall be allowed two months to appoint a patent agent. The request of the applicant who has not appointed an agent within the prescribed period shall be rejected. The applications of those whose domicile is in Turkey shall be prosecuted in the name of the applicant.

g) Signature circular,

In case of the applicant is legal entity signature circular should be submitted. Application petition and other documents are signed by the authorized person or persons.

h) ID of the creator

If the applicant and the creator are different bodies or the creators are more than one person then the right of filing the application should be declared as in Appendix 1.

### Formal Examination and Becoming Definite of the Application Date

**Article 9** — an Integrated Circuit Topography that its subject and scope does not fit to the definitions of article 2 (a) and (b) is rejected by Institute. Each Integrated Circuit Topography application should be filed in written and separately.

Institute examines the compliance with the conditions specified in Article 14 of the Law and Article 8 of this regulation. If the Institute decides that there is no deficiency then the integrated circuit topography application for registration is become definite on the date hour and minute that the application documents has been submitted.

### Remedying the deficiencies and Becoming Definite of the Application Date

**Article 10** — In case of there are deficiencies with respect to conditions of Article 8 of this regulation the Institute shall request the applicant to remedy these deficiencies in 2 months after the notification date.

I case of the application petition is suitable to the Annex 1 and fulfils the requirements of the second paragraph of Article 8 then the application will be accorded the date as of the date, hour and minute the application is filed. Otherwise institute shall allow the time prescribed in first paragraph to remedying those deficiencies. In that case the application shall be accorded the filing date as of the date, hour and minute the deficiency is rectified.

In case of the deficiency in documents other than those covered by second paragraph but necessary according to this regulation should be rectified in time mentioned n first paragraph.

However those deficiencies do not preventing the application to become definite.

The applications whose deficiencies have not been rectified within the period shall be considered as not filed.

## SECTION FOUR – Registration, Publication, Opposition

### Registration and Publication

**Article 11** — when the application has complied the conditions Institute will record the application to the register without examining the accuracy of the information given in application, whether the applicant has been entitled to file the application or not and whether the Integrated Circuit Topography is original or not. Upon registry an Integrated Circuit Topography shall be published in bulletin and the registration certificate prepared by Institute is forwarded to the applicant or his agent.

The following elements would be placed in Registry and published in bulletin;

- a) the number and the date of the application,
- b) registration date and number,
- c) protection date
- d) the name, address and the nationality of the Integrated Circuit Topography right holder,
- e) the name(s) and the address(s) of the creator(s),
- f) abstract,
- g) if appointed, the name and address of the agent,

### **Opposition**

**Article 12** — Applicants may appeal at the Institute within two months of the notice of the decision with the following documents;

- a) A petition explains the reasons of opposition,
- b) Receipt of the payment of the appeal fee published in Circular,

Where the specified documents have not been filed the appeal shall be deemed not to have been filed.

It is compulsory to submit the evidencing documents in time prescribed in first paragraph. Otherwise decision is made with the documents that already Institute have.

### **Examination of Appeals**

**Article 13** — The Re-examination and Evaluation Board shall consider the appeal. Against the decision of the Re-examination and Evaluation Board a lawsuit may be brought in sixty days in competent courts.

## **SECTION FIVE – Changes concerning the address, Title, the Characteristics of the Firm, merger, transfer, transfer by inheritance, Pledge and License**

### **Changes concerning the address, Title, the Characteristics of the Firm and merger**

**Article 14** - Changes with respect to the address, the title, the characteristics of the firm and merger must be recorded to the Register.

The change mentioned in first paragraph is applied to all registrations.

Following documents must be submitted recording the changes mentioned in first paragraph for each registration and application.

- a) Request petition,

- b) Receipt of the payment of related fee
- c) The Trade Registry Gazette showing the change of the address, the title, the characteristics of the firm or merger
- d) Power of attorney if an agent is appointed

### **Transfer**

**Article 15** — An Integrated Circuit Topography application may be transferred. The following documents have to be filed in order to record in the Register and publish.

- a) Request petition,
- b) A notarized assignment certificate describing the name of the mark and registration number, in case of partial transfer the full list of the goods of services assigned.
- c) Original of the registration certificate
- d) Receipt of the payment of related fee
- e) Power of attorney if an agent is appointed

### **Transfer by Inheritance**

**Article 16** — The following documents have to be filed in order to record in the Register and publish the Transfer by Inheritance.

- a) Request petition,
- b) The court decision,
- c) Receipt of the payment of related fee,
- d) Power of attorney if an agent is appointed

### **License**

**Article 17** — The proprietor of an Integrated Circuit Topography may license his rights over an Integrated Circuit Topography in all of national borders or a part.

The following documents have to be filed in order to record in the Register the license:

- a) Request petition,
- b) Notarized license contract containing the declarations and the signatures of the licensee and the licensor, the registration number of the trademark, the duration and the fees of the agreement,
- c) Original of the registration certificate
- d) Receipt of the payment of related fee
- e) Power of attorney if an agent is appointed

## Levy

**Article 18** — An Integrated Circuit Topography application may be a subject to levy of execution. The following documents have to be filed in order to record in the Register for levy of execution:

- a) Request petition,
- b) Notarized levy contract containing the declarations and the signatures of the parties, the registration number of the Integrated Circuit Topography,
- c) Original of the registration certificate
- d) Receipt of the payment of related fee
- e) Power of attorney if an agent is appointed

## Rearrangement of the Registration Certificate

**Article 19** — regarding the changes of address, title, characteristic of the firm, merger, transfer, transfer by inheritance, loss of the certificate upon the request the registration certificate may be prepared by Institute in condition that he related fee has been paid.

## SECTION SIX – Fee, Certified Copy, Registry

### Fee

**Article 20** - The fees payable with respect to an Integrated Circuit Topography registration. Fees shall be published in a Circular of Fees to be administered by The Turkish Patent Institute in accordance with the provisions of Articles 6/f and 25 of the Law 5000 on the Foundation and Duties of the TPI.

The fees are payable by the party requesting the service. The requests are rejected when their fees are not paid within their legal period.

### Certified Copy of Registration Certificate

**Article 21** — Certified copy of the Integrated Circuit Topography Certificate of Registration shall be supplied upon the request of the trademark proprietor or of the agent.

Following documents must be filed for obtaining a certified copy:

- a) Request petition,
- b) Receipt of the payment of related fee,
- c) Power of attorney if an agent is appointed.

## Registry

**Article 22** — Upon request a copy of the Register shall be available.

Following documents must be filed for obtaining a copy:

- a) Request petition,
- b) Receipt of the payment of related fee,

## SECTION SEVEN-Termination of the Right, Effect of the Invalidity, Compulsory License and Usage fee

### Termination of the right

**Article 23** — The Integrated Circuit Topography right shall be considered to have terminated when the period of protection has expired or the right holder has surrendered his right.

In case of termination subject matter will be considered public domain. This case will be published in bulletin.

### Surrender of a Right

**Article 24** — Holder of an Integrated Circuit Topography right may surrender his rights arising from the application right or the registration right. However if there are right such as levy or license then without the permission of the right holders Holder of an Integrated Circuit Topography right cannot surrender. Furthermore, if there is a third party claims right on Integrated Circuit Topography the right cannot surrender.

The surrender shall be filed in writing at the Institute.

Following documents must be filed to surrender:

- a) Request petition,
- b) notarized signature circular if legal entity,
- c) notarized signature declaration if real person,
- d) Notarized Power of attorney including the surrender authority if an agent is appointed
- e) Receipt of the payment of related fee,

Surrender shall have effect as of the date of entry in the design register.

### Effects of Invalidity

**Article 25** — the court decision regarding the invalidity is recorded to the Register and published.

A final decision for the declaration of invalidity shall have retroactive effect except the cases mentioned in subparagraph (a) and (b) in Article 20 of the Law.

### **Compulsory License and Usage fee**

**Article 26** — The Council of Ministers may decide to grant a compulsory license without permission of the holder on grounds of the subparagraphs a and b of the first paragraph of Article 37 of the Law.

A person whose contractual license request has been refused may apply to the Institute for a compulsory license after waiting for a reasonable term and he should submit the evidencing documents that he has requested contractual license with the receipt of the payment of the related fee.

Usage fee is determined by the Institute with the power given by council of ministers. Usage fee is determined by taking into consideration the economic value and the need for compensation of the applications that are removing the competition.

In case of need for the Institute in determining the usage fee, comments of the related institutions and organizations and related departments of the University may be taken.

## **SECTION EIGHT**

### **Last Provisions**

#### **Entry into Force**

**Article 27** - These Regulations shall enter into force on the day of publication.

#### **Execution**

**Article 28** - These Regulations shall be executed by the President of the Turkish Patent Institute.