
STATUTORY INSTRUMENTS

1989 No. 1100

DESIGNS

The Design Right (Semiconductor Topographies) Regulations 1989

Made - - - - *29th June 1989*
Coming into force - - *1st August 1989*

Whereas a draft of the following Regulations has been approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, being designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the conferment and protection of exclusive rights in the topographies of semiconductor products, in exercise of the powers conferred on him by the said section 2(2) hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Design Right (Semiconductor Topographies) Regulations 1989 and shall come into force on 1st August 1989.

Commencement Information

II [Reg. 1](#) in force at 1.8.1989, see [reg. 1](#)

Interpretation

2.—(1) In these Regulations—

“the Act” means the Copyright, Designs and Patents Act 1988⁽³⁾;

“semiconductor product” means an article the purpose, or one of the purposes, of which is the performance of an electronic function and which consists of two or more layers, at least one of which is composed of semiconducting material and in or upon one or more of which is fixed a pattern appertaining to that or another function; and

(1) S.I.1987/448.

(2) 1972 c. 68.

(3) 1988 c. 48.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Design Right (Semiconductor Topographies) Regulations 1989. (See end of Document for details)

“semiconductor topography” means a design within the meaning of section 213(2) of the Act which is a design of either of the following:

- (a) the pattern fixed, or intended to be fixed, in or upon—
 - (i) a layer of a semiconductor product, or
 - (ii) a layer of material in the course of and for the purpose of the manufacture of a semiconductor product, or
- (b) the arrangement of the patterns fixed, or intended to be fixed, in or upon the layers of a semiconductor product in relation to one another.

(2) Except where the context otherwise requires, these Regulations shall be construed as one with Part III of the Act (design right).

Commencement Information

I2 [Reg. 2](#) in force at 1.8.1989, see [reg. 1](#)

Application of Copyright, Designs and Patents Act 1988, Part III

3. In its application to a design which is a semiconductor topography, Part III of the Act shall have effect subject to regulations 4 to 9 below.

Commencement Information

I3 [Reg. 3](#) in force at 1.8.1989, see [reg. 1](#)

Qualification

4.—(1) Section 213(5) of the Act has effect subject to paragraphs (2) to (4) below.

[^{F1}(2) Part III of the Act has effect as if for section 217(3) there was substituted the following—

“(3) In this section “qualifying country” means—

- (a) the United Kingdom,
- (b) [^{F2}a] member State,
- (c) the Isle of Man, Gibraltar, the Channel Islands or any colony,
- (d) a country listed in the Schedule to the Design Right (Semiconductor Topographies) Regulations 1989.”]

(3) Where a semiconductor topography is created in pursuance of a commission or in the course of employment and the designer of the topography is, by virtue of section 215 of the Act (as substituted by regulation 5 below), the first owner of design right in that topography, section 219 of the Act does not apply and section 218(2) to (4) of the Act shall apply to the topography as if it had not been created in pursuance of a commission or in the course of employment.

(4) Section 220 of the Act has effect subject to regulation 7 below and as if for subsection (1) there was substituted the following:

(1) A design which does not qualify for design right protection under section 218 or 219 (as modified by regulation 4(3) of the Design Right (Semiconductor Topographies) Regulations 1989) or under the said regulation 4(3) qualifies for design right protection if the first marketing of articles made to the design—

- (a) is by a qualifying person who is exclusively authorised to put such articles on the market in [^{F3}the United Kingdom], and
- (b) takes place within the territory of [^{F4}the United Kingdom].”;

F5
...

- F1** Reg. 4(2) substituted (1.8.2006) by [The Design Right \(Semiconductor Topographies\) \(Amendment\) Regulations 2006 \(S.I. 2006/1833\)](#), regs. 1, **3**
- F2** Word in reg. 4(2) substituted (31.12.2020) by [The Design Right \(Semiconductor Topographies\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1052\)](#), regs. 1, **2(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 4(4) substituted (31.12.2020) by [The Design Right \(Semiconductor Topographies\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1052\)](#), regs. 1, **2(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 4(4) substituted (31.12.2020) by [The Design Right \(Semiconductor Topographies\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1052\)](#), regs. 1, **2(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 4(4) omitted (31.12.2020) by virtue of [The Design Right \(Semiconductor Topographies\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1052\)](#), regs. 1, **2(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I4** [Reg. 4](#) in force at 1.8.1989, see [reg. 1](#)

Ownership of design right

5. Part III of the Act has effect as if for section 215 of the Act there was substituted the following:

“**215.**—(1) The designer is the first owner of any design right in a design which is not created in pursuance of a commission or in the course of employment.

(2) Where a design is created in pursuance of a commission, the person commissioning the design is the first owner of any design right in it subject to any agreement in writing to the contrary.

(3) Where, in a case not falling within subsection (2) a design is created by an employee in the course of his employment, his employer is the first owner of any design right in the design subject to any agreement in writing to the contrary.

(4) If a design qualifies for design right protection by virtue of section 220 (as modified by regulation 4(4) of the Design Right (Semiconductor Topographies) Regulations 1989), the above rules do not apply and, subject to regulation 7 of the said Regulations, the person by whom the articles in question are marketed is the first owner of the design right.”.

Commencement Information

- I5** [Reg. 5](#) in force at 1.8.1989, see [reg. 1](#)

Duration of design right

- 6.—(1) Part III of the Act has effect as if for section 216 of the Act there was substituted the following:

“**216.** The design right in a semiconductor topography expires—

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- (a) ten years from the end of the calendar year in which the topography or articles made to the topography were first made available for sale or hire anywhere in the world by or with the licence of the design right owner, or
- (b) if neither the topography nor articles made to the topography are so made available within a period of fifteen years commencing with the earlier of the time when the topography was first recorded in a design document or the time when an article was first made to the topography, at the end of that period.”.

(2) Subsection (2) of section 263 of the Act has effect as if the words “or a semiconductor topography” were inserted after the words “in relation to an article”.

(3) The substitute provision set out in paragraph (1) above has effect subject to regulation 7 below.

Commencement Information

I6 [Reg. 6](#) in force at 1.8.1989, see [reg. 1](#)

Confidential information

7. In determining, for the purposes of section 215(4), 216 or 220 of the Act (as modified by these Regulations), whether there has been any marketing, or anything has been made available for sale or hire, no account shall be taken of any sale or hire, or any offer or exposure for sale or hire, which is subject to an obligation of confidence in respect of information about the semiconductor topography in question unless either—

- (a) the article or semiconductor topography sold or hired or offered or exposed for sale or hire has been sold or hired on a previous occasion (whether or not subject to an obligation of confidence), or
- (b) the obligation is imposed at the behest of the Crown, or of the government of any country outside the United Kingdom, for the protection of security in connection with the production of arms, munitions or war material.

Commencement Information

I7 [Reg. 7](#) in force at 1.8.1989, see [reg. 1](#)

Infringement

8.—(1) Section 226 of the Act has effect as if for subsection (1) there was substituted the following:

(1) Subject to subsection (1A), the owner of design right in a design has the exclusive right to reproduce the design—

- (a) by making articles to that design, or
- (b) by making a design document recording the design for the purpose of enabling such articles to be made.

(1A) Subsection (1) does not apply to—

- (a) the reproduction of a design privately for non-commercial aims; or
- (b) the reproduction of a design for the purpose of analysing or evaluating the design or analysing, evaluating or teaching the concepts, processes, systems or techniques embodied in it.”.

(2) Section 227 of the Act does not apply if the article in question has previously been sold or hired within—

- (a) the United Kingdom by or with the licence of the owner of design right in the semiconductor topography in question, or
- (b) the territory of any ^{F6}... member State of the European Economic Community or the territory of Gibraltar by or with the consent of the person for the time being entitled to import it into or sell or hire it within that territory.

(3) Section 228(6) of the Act does not apply.

(4) It is not an infringement of design right in a semiconductor topography to—

- (a) create another original semiconductor topography as a result of an analysis or evaluation of the first topography or of the concepts, processes, systems or techniques embodied in it, or
- (b) reproduce that other topography.

(5) Anything which would be an infringement of the design right in a semiconductor topography if done in relation to the topography as a whole is an infringement of the design right in the topography if done in relation to a substantial part of the topography.

F6 Word in [reg. 8\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [The Intellectual Property \(Exhaustion of Rights\) \(EU Exit\) Regulations 2019 \(S.I. 2019/265\)](#), [regs. 1, 6](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I8 [Reg. 8](#) in force at 1.8.1989, see [reg. 1](#)

Licences of right

9. Section 237 of the Act does not apply.

Commencement Information

I9 [Reg. 9](#) in force at 1.8.1989, see [reg. 1](#)

Revocation and transitional provisions

10.—(1) The Semiconductor Products (Protection of Topography) Regulations 1987(4) are hereby revoked.

(2) Sub-paragraph (1) of paragraph 19 of Schedule 1 to the Act shall not apply in respect of a semiconductor topography created between 7th November 1987 and 31st July 1989.

(3) In its application to copyright in a semiconductor topography created before 7th November 1987, sub-paragraph (2) of the said paragraph 19 shall have effect as if the reference to sections 237 to 239 were a reference to sections 238 and 239; and sub-paragraph (3) of that paragraph accordingly shall not apply to such copyright.

Commencement Information

I10 [Reg. 10](#) in force at 1.8.1989, see [reg. 1](#)

(4) S.I. 1987/1497.

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Changes to legislation: There are currently no known outstanding effects for the The Design
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Department of Trade and Industry

Eric Forth
Parliamentary Under Secretary of State,
Department of Trade and Industry

[F7] SCHEDULE

QUALIFYING COUNTRIES

F7 Sch. substituted (1.8.2006) by [The Design Right \(Semiconductor Topographies\) \(Amendment\) Regulations 2006 \(S.I. 2006/1833\)](#), reg. 1, [Sch. 1](#)

Albania
Angola
Antigua and Barbuda
Argentina
Armenia
Australia
Bahrain, Kingdom of
Bangladesh
Barbados
Belize
Benin
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cambodia
Cameroon
Canada
Central African Republic
Chad
Chile
China
Colombia
Congo
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Democratic Republic of the Congo
Djibouti
Dominica

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Dominican Republic
Ecuador
Egypt
El Salvador
Fiji
Former Yugoslav Republic of Macedonia
French overseas territories
Gabon
The Gambia
Georgia
Ghana
Grenada
Guatemala
Guinea
Guinea Bissau
Guyana
Haiti
Honduras
Hong Kong
Iceland
India
Indonesia
Israel
Jamaica
Japan
Jordan
Kenya
Korea, Republic of
Kuwait
Kyrgyz Republic
Lesotho
Liechtenstein
Macao, China
Madagascar
Malawi
Malaysia
Maldives
Mali
Mauritania
Mauritius

Mexico
Moldova
Mongolia
Morocco
Mozambique
Myanmar
Namibia
Nepal
Netherlands Antilles
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Qatar
Romania
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent & the Grenadines
Saudi Arabia
Senegal
Sierra Leone
Singapore
Solomon Islands
South Africa
Sri Lanka
Suriname
Swaziland
Switzerland
Chinese Taipei
Tanzania
Thailand

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Togo
 [^{F8}Tonga]
 Trinidad and Tobago
 Tunisia
 Turkey
 Uganda
 [^{F8}Ukraine]
 United Arab Emirates
 United States of America
 Uruguay
 Venezuela
 [^{F8}Vietnam]
 Zambia
 Zimbabwe]

F8 Words in [Sch.](#) inserted (1.7.2008) by [The Design Right \(Semiconductor Topographies\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/1434\)](#), regs. 1, **3**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Semiconductor Products (Protection of Topography) Regulations 1987. They implement Council Directive [87/54/EEC](#) (O.J. No. L24, 27.1.1987, p.36) on the legal protection of topographies of semiconductor products and Council Decisions [87/532/EEC](#) (O.J. No. L313, 4.11.1987, p.22) and [88/311/EEC](#) (O.J. No. L140, 7.6.1988, p.13) on the extension of that protection in respect of persons from certain countries and territories. The only change of substance is the implementation of the latter Decision, reflected in Parts II and III of the Schedule to the Regulations.

The 1987 Regulations created topography right and were free-standing. Topography right is now superseded by design right under Part III of the Copyright, Designs and Patents Act 1988, and these Regulations modify the application of that Act in respect of semiconductor topographies to ensure compliance with the Directive and Decisions.

Regulation 4 modifies the requirements which must be complied with for an original semiconductor topography to qualify for design right.

Regulations 5 and 6 modify the rules about first ownership and duration of design right.

Regulation 7 gives effect to the special provisions in the Directive about confidential information.

Regulation 8 modifies the provisions in the Act relating to infringement.

Regulation 9 excludes the provision in the Act for automatic licences of right in the last five years of design right.

Regulation 10 revokes the 1987 Regulations and modifies the transitional provisions of the Act.

Status:

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