



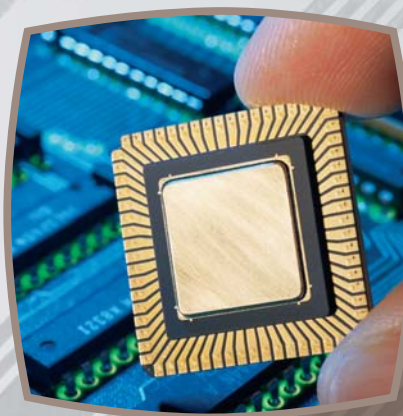
**Canadian
Intellectual Property
Office**

An Agency of
Industry Canada

**Office de la propriété
intellectuelle
du Canada**

Un organisme
d'Industrie Canada

A GUIDE TO INTEGRATED CIRCUIT TOPOGRAPHIES



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Purpose of this guide

A *Guide to Integrated Circuit Topographies* is available in electronic form on The Canadian Intellectual Property Office (CIPO) website (www.cipo.ic.gc.ca/ict). The electronic form of the Guide is the official version.

This booklet looks at what integrated circuit topographies (ICTs) are and how to register them. It is designed to give you the basic information necessary to protect your ICTs from being copied by others.

Although not a complete text on Canadian law regarding ICTs, this guide provides a general overview of the registration process.

For more detailed information, consult the *Integrated Circuit Topography Act* and the *Integrated Circuit Topography Regulations*, available online at www.cipo.ic.gc.ca/ict. The CIPO Client Service Centre can also provide further information (see page 2).

Note: In the event of any inconsistency between this document and the applicable legislation, the legislation must be followed.

Who we are

The Office of the Registrar of Topographies is responsible for registering ICTs in Canada, and is part of CIPO, an agency of Industry Canada. CIPO is also responsible for most other intellectual property (IP) rights, including patents, trade-marks, copyrights and industrial designs.

The main functions of the Office of the Registrar of Topographies are to:

- *receive applications for registration of ICTs;*
- *grant registrations to qualifying applications;*
- *receive and record assignments of ICTs; and*
- *provide general information to the public about ICT registrations.*

Visit CIPO's website

CIPO's website (www.cipo.ic.gc.ca) includes useful information about its product lines, services and legislative changes, and is also the best way to communicate with CIPO.

There are five IP guides, and all are available on the website, along with interactive tools that explain IP.



Visit CIPO
online
www.cipo.ic.gc.ca

Visit the Integrated Circuit Topographies section of the website for the following:

- *instructions on getting started;*
- *legislation, including the Integrated Circuit Topography Act and Integrated Circuit Topography Regulations; and*
- *online and printable forms, including the application for registration.*

General enquiries

CIPO's Client Service Centre (CSC) is the central point of contact for clients wishing to communicate with CIPO. The CSC supplies information on a variety of subjects, such as procedures for filing patent applications and for registering trade-marks, copyrights, industrial designs, and ICTs.

Intellectual property information officers deliver numerous services, including providing information, answering general enquiries, and guiding clients with searches through various databases.

CIPO's **Client Service Centre** is located at:

Canadian Intellectual Property Office
Industry Canada
Place du Portage I
Room C-229, 2nd floor
50 Victoria Street
Gatineau QC K1A 0C9

General enquiries:

Tel.: 1-866-997-1936 (toll-free)
TTY: 1-866-442-2476

Email: cipo.contact@ic.gc.ca

At the heart of modern technology

The growing presence of integrated circuit technology in virtually all fields of industry has created the need to protect Canadian innovations in this technology both nationally and internationally.

On May 1, 1993, the *Integrated Circuit Topography Act* and *Integrated Circuit Topography Regulations* came into force. The Act defines the protection available for ICTs, the three-dimensional configurations of the materials that form integrated circuits. Protection under this Act is extended to people of other countries on a reciprocal basis, making protection in other countries available to Canadians.

What is an ICT?

Semiconductor integrated circuits are at the heart of modern technology, communications, entertainment, manufacturing, medical and space technologies, and also are now found in items as ordinary as household appliances. The *Integrated Circuit Topography Act* and *Integrated Circuit Topography Regulations* refer to “microchips,” a form of integrated circuit, as “integrated circuit products.”

Today’s integrated circuit products are constructed from a complex series of layers of semiconductors, metals, dielectrics (insulators) and other materials on a substrate. The Act and Regulations refer to the three-dimensional configurations of these layers as “integrated circuit topography.” The Act provides protection against copying of registered topographies, but does not prevent others from developing integrated circuit products that use other topographies to provide the same electronic functions.

People occasionally confuse ICTs with patents, trade-marks, copyrights, or industrial designs. Like ICTs, the latter are rights granted for intellectual creativity and are forms of IP.

However:

- *Integrated circuit topographies* refer to the three-dimensional configurations of the electronic circuits in integrated circuit products or layout designs.
- *Patents* cover new inventions (process, machine, manufacture, composition of matter) or any new and useful improvement of existing inventions.
- *Trade-marks* are words, symbols or designs (or any combination of these) used to distinguish the wares or services of one person or organization from those of others in the marketplace.
- *Copyrights* provide protection for literary, artistic, dramatic or musical works (including computer programs) and three other subject matter: performance, sound recording and communication signal.
- *Industrial designs* are the visual features of shape, configuration, pattern or ornament (or any combination of these) applied to a finished manufactured article.

What can you register?

The protection provided by the *Integrated Circuit Topography Act* protects the original design of a registered topography whether it is represented in an integrated circuit product or not. Topographies that define only part of the structure needed to perform an electronic function may also be registered. For example, topographies that define generic layers of gate array integrated circuit products, and topographies that define interconnection layers that customize gate array integrated circuit products to perform specific electronic functions, may be registered separately.

A topography is considered original if it is developed through intellectual effort, and is not just a reproduction of all, or a large part, of another topography. The Act does not protect pre-existing topographies that are commonplace among topography designers or integrated circuit product manufacturers.

Why should you register?

The *Integrated Circuit Topography Act* gives owners of registered topographies exclusive legal rights to control certain actions. Owners of registered topographies can exclude others from:

- reproducing a protected topography or any substantial part of one;
- manufacturing an integrated circuit product incorporating a protected topography or a substantial part of one;
- importing or commercially exploiting (i.e., selling, leasing, offering or exhibiting for sale or lease, or other commercial distribution) a protected topography or a substantial part of one, or an integrated circuit product that embodies a protected topography or a substantial part of one; and
- importing or commercially exploiting an industrial article that incorporates an integrated circuit product that embodies a protected topography or a substantial part of one.

Exceptions

There are exceptions where the exclusive rights to a registered topography are not infringed. For example, it is not an infringement when a person reproduces the topography for the sole purpose of analyzing, researching, or teaching about ICT. Other exceptions are described in subsection 6(2) of the *Integrated Circuit Topography Act*.

Other forms of protection

Some integrated circuit products, such as random access memories (RAMs) and read-only memories (ROMs), may be used to store sets of instructions for electronic processors. In addition to the protection available for ICTs in such integrated circuits, the sets of instructions they store may be subject to protection under the *Copyright Act* as literary works, and may in some cases be patentable as industrial methods.

Other aspects of integrated circuit products may also be patentable, for example, the structure and method of operation of electronic circuits embodied in integrated circuit products, or industrial processes used to manufacture integrated circuit products.

Who can apply for registration?

Only the current owner of the topography (who may be the creator or, where the topography has been transferred, the successor in title) may apply for registration of the topography.

When to file an application

The application must be filed within two years of the first commercial exploitation (i.e., sale, lease, offer or exhibit for sale or lease, or other form of distribution for a commercial purpose) of the topography.

How long does registration last?

The Act protects registered ICTs for up to ten years from the filing date of the application for registration. The term ends on December 31 of the tenth year after the year of the first commercial exploitation, or the year of the filing date, whichever came first.

What to consider before filing an application

The Office of the Registrar of Topographies will give you the basic information you need in order to file your own application for ICT registration; however, the Office will not prepare your application.

The Office does not examine a topography to determine originality or compliance with the requirements of the Act. The Registrar of Topographies has authority to reject an application that is incomplete or filed more than two years after the first commercial exploitation, or where the creator does not meet the nationality requirements. For more information on the specifics of nationality requirements, please refer to the *Integrated Circuit Topography Act* (www.cipo.ic.gc.ca/ict), or consult a legal professional with knowledge in the field.

Consider consulting a legal professional

Drafting an ICT application requires careful attention to detail and knowledge of the regulations. For this reason, you are advised to consult a legal professional who specializes in IP.



Preparing an ICT registration application

Application form

Instructions for completing an application form can be found on the CIPO website (www.cipo.ic.gc.ca/ict).

When filling out the application, you must include the following information:

- *title(s) of topography;*
- *date and location of first commercial exploitation;*
- *name and street address of applicant;*
- *applicant's interest in the topography;*
- *a description of the nature or function of the topography; and*
- *where the applicant has no office or place of business in Canada, the name and address of a representative for service.*

In addition, you must submit a complete set of overlay sheets, drawings or photographs of the topography. Under certain conditions, some confidential information can be omitted from the drawings or photographs of the topography.

Fees

A fee must accompany your application to register an ICT. Payment may be made by credit card (VISA, MasterCard or American Express), direct payment, deposit account, postal money order, or cheque payable in Canadian dollars to the Receiver General for Canada. Do not add federal and provincial taxes.

Details about fees are available on the CIPO website (www.cipo.ic.gc.ca) or you may contact the Client Service Centre (see page 2).

Completed applications

You may send your completed application electronically through the CIPO website (www.cipo.ic.gc.ca/ict).

You may also download the application form from the website, then send your completed application by mail to the address below.

Corresponding with the Office of the Registrar of Topographies

Business with the Office of the Registrar of Topographies is normally done in writing.
Address all correspondence to:

Office of the Registrar of Topographies
Canadian Intellectual Property Office
Industry Canada
Place du Portage I
Room C-114
50 Victoria Street
Gatineau QC K1A 0C9
Fax: 819-953-CIPO (2476)

More information about CIPO's official correspondence procedures is available on the CIPO website (www.cipo.ic.gc.ca/ict).

If you are enquiring about the status of your pending registration application, include the application number, your name and the title of the topography. If you have hired an agent, you should conduct all correspondence through that agent.

Applicants and agents are welcome to meet with CIPO officers to discuss their applications; however, the latter will discuss only the formal requirements related to the application at hand — legal advice and related rights in ICTs must be discussed with legal professionals.

The Office of the Registrar of Topographies will respond to all general enquiries, but cannot:

- advise you whether to file an application;
- tell you whether your design meets registration criteria prior to your filing an application;
- advise you about possible infringement of an ICT; or
- act in any way as an interpreter of ICT law or as an adviser, other than in matters directly related to the processing of your application.

Electronic services

Services available

Our electronic service delivery allows you to:

- file an ICT registration application;
- register documents;
- pay various fees; and
- exchange correspondence.

In order to complete one or more of these services online, simply visit the CIPO website (www.cipo.ic.gc.ca/ict), then fill out and send the appropriate form. The website also has ICT application forms available for download that can be completed and sent by regular mail.

The CIPO website has detailed instructions on how to complete an ICT application.



Protection abroad

Owners of ICTs should consider protection in other countries, particularly those where significant market opportunities are expected or where significant foreign competitors have manufacturing facilities.

Some twenty countries have explicit intellectual property protection for semiconductor chips. A list of countries granting reciprocal rights may be found in the *Integrated Circuit Topography Act* on the CIPO website (www.cipo.ic.gc.ca/ict).

Marking a product

While marking of integrated circuit products is not obligatory, it is advisable to mark a product with a title corresponding to the registered title or titles. Failure to do so may constitute a valid defence in an infringement legal action if a defendant can prove having had no knowledge of the registration of the topography.



APPENDIX I — FREQUENTLY ASKED QUESTIONS

Q1. What is an ICT?

A. An ICT refers to the three-dimensional configuration of the electronic circuits used in microchips and semiconductor chips. Registration grants you exclusive rights for 10 years on your original circuit design. Protection can extend to the layout design as well as to the finished product. To register, you must apply within two years of the first commercial use of the design. Your application must include a copy of the circuit layout and design.

The legislation governing ICT is the *Integrated Circuit Topography Act*, which came into force on May 1, 1993.

Q2. Why obtain ICT protection?

A. If you are a manufacturer or creator of integrated circuits, ICT protection will give you exclusive rights over the copying of the topography and the commercialization of circuits that contain the topography. This form of protection complements any patent protection you may obtain for the circuit itself.

Q3. Is registration mandatory?

A. In order to protect ICT, you must apply for, and be granted, registration. Registration is automatic and does not involve extensive examination. Since ICT laws are national, you must file in each country where you want protection.

Q4. Who can register an ICT?

A. The creator of a topography or the successor in title can obtain protection. Typically, the owner is the creator. If a creator sells his or her rights, then a second party will own the topography and will be able to obtain ICT protection. If the creator designs the circuit as part of an employment contract, the employer may own the topography and be entitled to the protection.

Q5. How long is registration effective?

A. ICT protection lasts to the end of the tenth year (December 31):

- from the date of filing of the application; or
- from the date of first commercial exploitation of the topography, whichever is earlier.

Q6. How do I obtain ICT protection?

A. You can obtain ICT protection in Canada by submitting an application, along with the \$200 filing fee, to:

Registrar of Integrated Circuit Topographies
Canadian Intellectual Property Office
Industry Canada
Place du Portage I, Room C-114
50 Victoria Street
Gatineau QC K1A 0C9

Q7. **Why hire an agent?**

A. ICT applications are relatively simple to prepare. If you are unsure of what rights you can obtain or precisely what information you must include in your application, an agent can help.

Q8. **Does registration in Canada protect my rights in other countries?**

A. No. ICT laws are national. You must therefore file in each country where you want protection.

Q9. **What are the requirements and steps for obtaining an ICT registration?**

A. To get an ICT registration, you must submit an application form with copies of the overlay sheets and a description of the function or nature of the circuit. You must also submit the \$200 filing fee. Substantive examination is not carried out, and the Office will refuse the application if it was commercially exploited more than two years before the filing date, or if the applicant does not meet the eligibility requirements. Approved applications are then registered, and a registration certificate is sent to the applicant.

Q10. **Will the Office of the Registrar of Topographies ensure that my topography is not infringed?**

A. No. Enforcement of rights is the responsibility of the owner. Your rights can be enforced through the judicial system.



APPENDIX II — GLOSSARY

Certificate of registration

A certificate issued by the Registrar of Topographies stating that the topography has been registered in accordance with the *Integrated Circuit Topography Act*.

Canadian Intellectual Property Office (CIPO)

An agency of Industry Canada that administers Canada's intellectual property legislation and regulations regarding patents, trade-marks, copyrights, industrial designs and integrated circuit topographies.

Copyrights

Literary, artistic, dramatic or musical works (including computer programs) and three other subject matter known as: performances, sound recordings and communication signals.

Description

A description is a basic requirement of an application for integrated circuit topography. It identifies the nature (structure type) or function of the topography.

Industrial designs

Visual features of shape, configuration, pattern or ornament (or any combination of these) applied to a manufactured article.

Infringement

Violation of integrated circuit topography rights through the unauthorized use of an integrated circuit topography.

Integrated circuit topographies

Three-dimensional configurations of electronic circuits embodied in integrated circuit products or layout designs.

Integrated Circuit Topography Act

Federal legislation governing integrated circuit topographies in Canada.

Intellectual property

The right to ownership and control over the form of creative endeavour that can be protected through a trade-mark, patent, copyright, industrial design or integrated circuit topography.

Licence

An agreement granting someone permission to use a topography for certain purposes or under certain conditions. A licence does not constitute a change in ownership of the topography.

Patents

New inventions (process, machine, manufacture, composition of matter) or any new and useful improvement to an existing invention.

Registration

The granting of exclusive rights to an integrated circuit topography by the Registrar of Topographies. This provides protection against imitation and unauthorized use of the topography.

Trade-marks

Words, symbols or designs (or any combination of these) used to distinguish the wares or services of one person or organization from those of others in the marketplace.