

(Added Pub. L. 98-620, title III, § 302, Nov. 8, 1984, 98 Stat. 3347.)

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 98-620, title III, § 304, Nov. 8, 1984, 98 Stat. 3356, provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title and the amendments made by this title [enacting this chapter]."

§ 902. Subject matter of protection

(a)(1) Subject to the provisions of subsection (b), a mask work fixed in a semiconductor chip product, by or under the authority of the owner of the mask work, is eligible for protection under this chapter if—

(A) on the date on which the mask work is registered under section 908, or is first commercially exploited anywhere in the world, whichever occurs first, the owner of the mask work is (i) a national or domiciliary of the United States, (ii) a national, domiciliary, or sovereign authority of a foreign nation that is a party to a treaty affording protection to mask works to which the United States is also a party, or (iii) a stateless person, wherever that person may be domiciled;

(B) the mask work is first commercially exploited in the United States; or

(C) the mask work comes within the scope of a Presidential proclamation issued under paragraph (2).

(2) Whenever the President finds that a foreign nation extends, to mask works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided in this chapter, the President may by proclamation extend protection under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which the mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals, domiciliaries, or sovereign authorities of that nation, or (ii) which are first commercially exploited in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection extended under any such proclamation.

(b) Protection under this chapter shall not be available for a mask work that—

(1) is not original; or

(2) consists of designs that are staple, commonplace, or familiar in the semiconductor industry, or variations of such designs, combined in a way that, considered as a whole, is not original.

(c) In no case does protection under this chapter for a mask work extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

(Added Pub. L. 98-620, title III, § 302, Nov. 8, 1984, 98 Stat. 3348; amended Pub. L. 100-159, § 3, Nov. 9, 1987, 101 Stat. 900.)

AMENDMENTS

1987—Subsec. (a)(2). Pub. L. 100-159 inserted provision at end permitting the President to revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection extended under any such proclamation.

EX. ORD. NO. 12504. PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

Ex. Ord. No. 12504, Jan. 31, 1985, 50 F.R. 4849, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Semiconductor Chip Protection Act of 1984 (17 U.S.C. 901 *et seq.*) and in order to provide for the orderly implementation of that Act, it is hereby ordered that, subject to the authority of the Director of the Office of Management and Budget under Executive Order No. 11030, as amended [44 U.S.C. 1505 note], requests for issuance by the President of a proclamation extending the protection of Chapter 9 of title 17 of the United States Code against unauthorized duplication of semiconductor chip products to foreign nationals, domiciliaries, and sovereign authorities shall be presented to the President through the Secretary of Commerce in accordance with such regulations as the Secretary may, after consultation with the Secretary of State, prescribe and cause to be published in the Federal Register.

RONALD REAGAN.

§ 903. Ownership, transfer, licensing, and recordation

(a) The exclusive rights in a mask work subject to protection under this chapter belong to the owner of the mask work.

(b) The owner of the exclusive rights in a mask work may transfer all of those rights, or license all or less than all of those rights, by any written instrument signed by such owner or a duly authorized agent of the owner. Such rights may be transferred or licensed by operation of law, may be bequeathed by will, and may pass as personal property by the applicable laws of intestate succession.

(c)(1) Any document pertaining to a mask work may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document. The Register of Copyrights shall, upon receipt of the document and the fee specified pursuant to section 908(d), record the document and return it with a certificate of recordation. The recordation of any transfer or license under this paragraph gives all persons constructive notice of the facts stated in the recorded document concerning the transfer or license.

(2) In any case in which conflicting transfers of the exclusive rights in a mask work are made, the transfer first executed shall be void as against a subsequent transfer which is made for a valuable consideration and without notice of the first transfer, unless the first transfer is recorded in accordance with paragraph (1) within three months after the date on which it is executed, but in no case later than the day before the date of such subsequent transfer.

(d) Mask works prepared by an officer or employee of the United States Government as part of that person's official duties are not protected under this chapter, but the United States Gov-