

Subsec. (a)(5). Pub. L. 105-304, §405(e)(6), substituted “section 112 or 114” for “section 114” and “those sections” for “that section”.

1997—Subsec. (b). Pub. L. 105-80 substituted “subsection (a)” for “subsection subsection (a)”.

1995—Subsec. (a)(1). Pub. L. 104-39, §5(d)(5), in first sentence substituted “sections 114, 115 and 116” for “sections 115 and 116” and “paragraphs (2), (3), (4) and (5)” for “paragraphs (2), (3), and (4)”.

Subsec. (a)(3). Pub. L. 104-39, §5(d)(6), inserted before period at end “or as prescribed in section 115(c)(3)(D)”.

Subsec. (a)(5). Pub. L. 104-39, §5(d)(7), added par. (5). 1993—Pub. L. 103-198, §2(d)(1), renumbered section 804 of this title as this section.

Subsec. (a). Pub. L. 103-198, §2(d)(2), amended subsec. (a) generally, substituting present provisions for provisions relating to commencement of proceedings concerning the adjustment of rates established by the Copyright Royalty Tribunal, filing of petitions by interested persons seeking adjustments of rates, and publication of notice of such proceedings in the Federal Register.

Subsec. (b). Pub. L. 103-198, §2(d)(3), substituted “subparagraph (B)” for “subclause (B)”, “established by the Copyright Royalty Tribunal or the Librarian of Congress” for “established by the Tribunal”, “petition with the Librarian” for “petition with the Tribunal”, “Librarian shall proceed” for “Tribunal shall proceed”, “subsection (a) of this section” for “(a)(2), above”, and “rates made by the Copyright Royalty Tribunal or the Librarian of Congress” for “rates made by the Tribunal”.

Subsec. (c). Pub. L. 103-198, §2(d)(4), substituted “Librarian of Congress” for “Tribunal”.

Subsec. (d). Pub. L. 103-198, §2(d)(5), substituted “Librarian of Congress” for “Chairman of the Tribunal” and “a determination” for “determination by the Tribunal”.

Subsec. (e). Pub. L. 103-198, §2(d)(6), struck out subsec. (e) which read as follows: “All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Tribunal shall render its final decision in any such proceeding within one year from the date of such publication.”

1992—Subsec. (d). Pub. L. 102-563 inserted “or (4)” after “803(b)(3)” and substituted “119, or 1007” for “or 119”.

1990—Subsec. (a)(2)(C)(i). Pub. L. 101-318 substituted “section 116” for “section 115”.

1988—Subsec. (a)(2)(C). Pub. L. 100-568 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.”

Subsec. (d). Pub. L. 100-667 substituted “section 111, 116, or 119” for “sections 111 or 116”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-39 effective 3 months after Nov. 1, 1995, see section 6 of Pub. L. 104-39, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3(e)(2) of Pub. L. 101-318 provided that: “The amendment made by subsection (c) [amending this section] shall be effective as of October 31, 1988.”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-667 effective Jan. 1, 1989, see section 206 of Pub. L. 100-667, set out as an Effective Date note under section 119 of this title.

Amendment by Pub. L. 100-568 effective Mar. 1, 1989, with any cause of action arising under this title before such date being governed by provisions in effect when cause of action arose, see section 13 of Pub. L. 100-568, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 112, 114, 115, 802 of this title.

§ 804. Renumbered § 803

§§ 805 to 810. Repealed. Pub. L. 103-198, § 2(e), Dec. 17, 1993, 107 Stat. 2308

Section 805, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to staff of Copyright Royalty Tribunal.

Section 806, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to administrative support of Tribunal.

Section 807, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to deduction of costs of proceedings involving distribution of royalty fees.

Section 808, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to reporting requirements of the Tribunal.

Section 809, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to effective date of final determinations of Tribunal.

Section 810, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to judicial review of final decisions of Tribunal.

CHAPTER 9—PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

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AMENDMENTS

2002—Pub. L. 107-273, div. C, title III, §13210(11), Nov. 2, 2002, 116 Stat. 1910, substituted “licensing” for “licensure” in item 903.

1997—Pub. L. 105-80, §12(a)(21), Nov. 13, 1997, 111 Stat. 1535, substituted “Ownership, transfer, licensure, and recordation” for “Ownership and transfer” in item 903.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 109 of this title; title 11 section 101; title 19 section 1337; title 28 sections 1338, 1498.

§ 901. Definitions

(a) As used in this chapter—

(1) a “semiconductor chip product” is the final or intermediate form of any product—

(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

(B) intended to perform electronic circuitry functions;

(2) a “mask work” is a series of related images, however fixed or encoded—

(A) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material

present or removed from the layers of a semiconductor chip product; and

(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

(3) a mask work is “fixed” in a semiconductor chip product when its embodiment in the product is sufficiently permanent or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

(4) to “distribute” means to sell, or to lease, bail, or otherwise transfer, or to offer to sell, lease, bail, or otherwise transfer;

(5) to “commercially exploit” a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

(6) the “owner” of a mask work is the person who created the mask work, the legal representative of that person if that person is deceased or under a legal incapacity, or a party to whom all the rights under this chapter of such person or representative are transferred in accordance with section 903(b); except that, in the case of a work made within the scope of a person’s employment, the owner is the employer for whom the person created the mask work or a party to whom all the rights under this chapter of the employer are transferred in accordance with section 903(b);

(7) an “innocent purchaser” is a person who purchases a semiconductor chip product in good faith and without having notice of protection with respect to the semiconductor chip product;

(8) having “notice of protection” means having actual knowledge that, or reasonable grounds to believe that, a mask work is protected under this chapter; and

(9) an “infringing semiconductor chip product” is a semiconductor chip product which is made, imported, or distributed in violation of the exclusive rights of the owner of a mask work under this chapter.

(b) For purposes of this chapter, the distribution or importation of a product incorporating a semiconductor chip product as a part thereof is a distribution or importation of that semiconductor chip product.

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

AUTHORIZATION OF APPROPRIATIONS

Section 304 of title III of Pub. L. 98-620 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].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 section 101.

§ 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,