

*Government Orders*

draft legislation that is an innovative and timely response to rapidly unfolding developments in information technology, international trade and intellectual property.

In order to be protected under the integrated circuits topography act, a topography must be original. Its design must be the result of an intellectual effort and not the mere reproduction of another topography or a substantial part thereof. Topographies that are commonplace among designers or manufacturers of integrated circuits are not protected by the act.

Subject to specific exceptions, the integrated circuits topography act gives the rights owner of an original topography control over the following: first, the unauthorized copying of a protected topography or any substantial part of it; second, the unauthorized manufacturing of an IC product incorporating the topography or a substantial part of it; third, the importation or commercial exploitation of a topography or a substantial part of it or of an IC product made without the consent of the IC owner; and, fourth, the importation or commercial exploitation of an industrial article which incorporates an IC product that embodies a protected topography.

I am sure that it is crystal clear to everybody. When they read *Hansard*, maybe it will become even more clear.

In short, the legislation enables the designers and manufacturers of an IC topography to control unauthorized reproduction, distribution and importation of infringing technologies.

The legislation provides for the full range of civil remedies, including injunctions, damages and exemplary damages.

The doctrines of first sale and exhaustion of rights apply to IC products manufactured anywhere in the world and put on the market with the authorization of the rights owner. After the first lawful sale, the topography owner has no statutory right to control its lawful use, rental, resale or redistribution. This will permit parallel imports of technology, and will facilitate diffusion of the design.

In order to design business with the secrecy it requires to protect the expensive investments needed to research and develop their topographies, the disclosure require-

ments for compulsory registration have been kept flexible.

Authority is given to the Governor in Council to adopt flexible deposit requirements so that the applicant may refrain from disclosing information protected by trade secret and other confidential information.

Under the act, an original topography can be protected for as long as 10 years. Applicants are given a two year grace period following first commercial use of the circuit before registering the topography.

The protection commences at registration. However, if the applicant has taken advantage of the grace period, either for the full two years or less, then the 10 year term of protection is computed as beginning following the first commercial exploitation anywhere in the world either of a chip that embodies the protected topography, or of an industrial article incorporating a chip that embodies the protected topography.

Mr. Speaker, this will be very clear when you read it carefully in *Hansard*.

Consistent with usual industry practices, marking of IC products will be required only to allow identification of the product so users can determine whether in fact it is registered. These features of the legislation reduce the regulatory burden of the legislation while providing full protection to designers and manufacturers.

The three exemptions to the statutory rights provided by the act go further to create an environment in which the transfer of integrated circuit technology can proceed without impediment.

The first exemption applies to the unauthorized copying of a protective topography for purposes of teaching and research.

The second exemption allows a protected topography to be copied as a first step in a process of analysis and redesign. It also allows topographies created by this process to be exploited if they themselves are original.

This exemption encourages competition and innovation by allowing reverse engineering. This is a process in which a product is taken apart and then reproduced in order to discover information about it. Then another topography is created based upon the original design, but with sufficient modifications to meet the originality requirements of the act. Reverse engineering is a vital feature of the growth and development of the Canadian