

Office employee is authorized to testify in connection with his or her involvement or assistance in a proceeding or matter before the Office, that employee is further prohibited from giving testimony in response to an inquiry about the bases, reasons, mental processes, analyses, or conclusions of that employee in the performance of his or her official functions.

(2) The General Counsel may authorize an employee to appear and give expert testimony or opinion testimony upon the showing, pursuant to §205.3 of this part, that exceptional circumstances warrant such testimony and that the anticipated testimony will not be adverse to the interest of the Copyright Office or the United States.

(b) If an Office employee is authorized to testify, the employee will generally be prohibited from providing testimony in response to questions which seek, for example:

(1) To elicit information about the employee's:

(i) Qualifications to examine or otherwise consider a particular copyright application.

(ii) Usual practice or whether the employee followed a procedure set out in any Office manual of practice in a particular case.

(iii) Consultation with another Office employee.

(iv) Familiarity with:

(A) Preexisting works that are similar.

(B) Registered works, works sought to be registered, a copyright application, registration, denial of registration, or request for reconsideration.

(C) Copyright law or other law.

(D) The actions of another Office employee.

(v) Reliance on particular facts or arguments.

(2) To inquire into the manner in and extent to which the employee considered or studied material in performing the function.

(3) To inquire into the bases, reasons, mental processes, analyses, or conclusions of that Office employee in performing the function.

(4) In exceptional circumstances, the General Counsel may waive these limitations pursuant to §205.3 of this part.

PART 211—MASK WORK PROTECTION

Sec.

211.1 General provisions.

211.2 Recordation of documents pertaining to mask works.

211.3 Mask work fees.

211.4 Registration of claims of protection in mask works.

211.5 Deposit of identifying material.

211.6 Methods of affixation and placement of mask work notice.

211.7 Reconsideration procedure for refusals to register.

AUTHORITY: 17 U.S.C. 702 and 908.

SOURCE: 50 FR 26719, June 28, 1985, unless otherwise noted.

§211.1 General provisions.

(a) Mail and other communications with the Copyright Office concerning the Semiconductor Chip Protection Act of 1984, Pub. L. 98-620, chapter 9 of title 17 U.S.C., shall be addressed to: Library of Congress, Department MW, Washington, DC 20540.

(b) Section 201.2 of this chapter relating to the information given by the Copyright Office, and parts 203 and 204 of this chapter pertaining to the Freedom of Information Act and Privacy Act, shall apply, where appropriate, to the administration by the Copyright Office of the Semiconductor Chip Protection Act of 1984, Pub. L. 98-620.

(c) For purposes of this part, the terms *semiconductor chip product*, *mask work*, *fixed*, *commercially exploited*, and *owner*, shall have the meanings set forth in section 901 of title 17 U.S.C.

§211.2 Recordation of documents pertaining to mask works.

The conditions prescribed in §201.4 of this chapter for recordation of transfers of copyright ownership and other documents pertaining to copyright are applicable to the recordation of documents pertaining to mask works under section 903 of title 17 U.S.C.

[50 FR 26719, June 28, 1985, as amended at 66 FR 34373, June 28, 2001]

§211.3 Mask work fees.

(a) Section 201.3 of this chapter prescribes the fees or charges established by the Register of Copyrights for services relating to mask works.

(b) Section 201.6 of this chapter on the payment and refund of Copyright Office fees shall apply to mask work fees.

[50 FR 26719, June 28, 1985, as amended at 56 FR 59886, Nov. 26, 1991; 59 FR 38372, July 28, 1994; 63 FR 29139, May 28, 1998; 64 FR 29522, June 1, 1999]

§211.4 Registration of claims of protection in mask works.

(a) *General.* This section prescribes conditions for the registration of claims of protection in mask works pursuant to section 908 of title 17 U.S.C.

(b) *Application for registration.* (1) For purposes of registration of mask work claims, the Register of Copyrights has designated "Form MW" to be used for all applications submitted on and after January 7, 1985. Copies of the form are available free upon request to the Copyright Information Office, U.S. Copyright Office, Library of Congress, Washington, DC 20559. Applications submitted before January 7, 1985 will be dated January 7, 1985.

(2) An application for registration of a mask work claim may be submitted by the owner of the mask work, or the duly authorized agent of any such owner.

(i) The owner of a mask work includes a party that has obtained the transfer of all of the exclusive rights in the work, but does not include the transferee of less than all of the exclusive rights, or the licensee of all or less than all of these rights.

(ii) For purposes of eligibility to claim mask work protection pursuant to section 902(a)(1)(A) of 17 U.S.C., the owner of the mask work must be either the initial owner or a person who has obtained by transfer the totality of rights in the mask work under the Act.

(3) An application for registration shall be submitted on Form MW prescribed by the Register under paragraph (b)(1) of this section, and shall be accompanied by the registration fee and deposit required under 17 U.S.C. 908 and §§211.3 and 211.5 of these regulations. The application shall contain the information required by the form and its accompanying instructions, and shall include a certification. The certification shall consist of:

(i) A declaration that the applicant is authorized to submit the application and that the statements made are correct to the best of that person's knowledge; and

(ii) The handwritten signature of the applicant, accompanied by the typed or printed name of that person.

(c) *One registration per mask work.* (1) Subject to the exception specified in paragraph (c)(2) of this section, only one registration can generally be made for the same version of a mask work fixed in an intermediate or final form of any semiconductor chip product. However, where an applicant for registration alleges that an earlier registration for the same version of the work is unauthorized and legally invalid and submits for recordation a signed affidavit, a registration may be made in the applicant's name.

(2) Notwithstanding the general rule permitting only one registration per work, owners of mask works in final forms of semiconductor chip products that are produced by adding metal-connection layers to unpersonalized gate arrays may separately register the entire unpersonalized gate array and the custom metallization layers. Applicants seeking to register separately entire unpersonalized gate arrays or custom metallization layers should make the nature of their claim clear at Space 8 of application Form MW. For these purposes, an "unpersonalized gate array" is an intermediate form chip product that includes a plurality of circuit elements that are adaptable to be personalized into a plurality of different final form chip products, in which some of the circuit elements are, or will be, connected as gates.

(d) *Registration as a single work.* Subject to the exception specified in paragraph (c)(2) of this section, for purposes of registration on a single application and upon payment of a single fee, the following shall be considered a single work.

(1) In the case of a mask work that has not been commercially exploited: All original mask work elements fixed in a particular form of a semiconductor chip product at the time an application for registration is filed and in which the owner or owners of the mask work is or are the same; and