

§211.5 Deposit of identifying material.

(a) *General.* This section prescribes rules pertaining to the deposit of identifying material for registration of a claim of protection in a mask work under section 908 of title 17 U.S.C.

(b) *Nature of required deposit.* Subject to the provisions of paragraph (c) of this section, the deposit of identifying material to accompany an application for registration of a mask work claim under §211.4 of these regulations shall consist of:

(1) In the case of a commercially exploited mask work, four reproductions of the mask work fixed in the form of the semiconductor chip product in which it was first commercially exploited. Defective chips may be deposited under this section provided that the mask work contribution would be revealed in reverse dissection of the chips. The four reproductions shall be accompanied by a visually perceptible representation of each layer of the mask work consisting of:

(i) Sets of plastic color overlay sheets;

(ii) Drawings or plots in composite form on a single sheet or on separate sheets; or

(iii) A photograph of each layer of the work fixed in a semiconductor chip product.

The visually perceptible representation of a mask work deposited under this section shall be reproduced on material which can be readily stored in an 8½×11 inch format, and shall be reproduced at a magnification sufficient to reveal the basic circuitry design of the mask work and which shall in all cases be at least 20 times magnification.

(2) In the case of a mask work that has not been commercially exploited, one of the following:

(i) Where the mask work contribution in which registration is sought represents twenty percent or more of the area of the intended final form, a visually perceptible representation of the work in accordance with paragraph (b)(1) (i) or (ii) of this section. In addition to the deposit of visually perceptible representations of the work, an applicant may, at his or her option, deposit four reproductions in the most complete form of the mask work as fixed in a semiconductor product.

(ii) Where the mask work contribution in which registration is sought represents less than twenty percent of the area of the intended final form, a visually perceptible representation of the work which reveals the totality of the mask work contribution to a person trained in the state of the art. The visually perceptible representations may consist of any combination of plastic color overlay sheets, drawing or plots in composite form, or a photograph or photographs of the entire mask set. If the visually perceptible representation fails to identify all of the elements of the mask work contribution, they may be accompanied by additional explanatory material. The visually perceptible representation of a mask work deposited under this section shall be reproduced on material which can be readily stored in an 8½×11 inch format and shall be of sufficient magnification and completeness to reveal all elements of the mask work contribution. In addition to the deposit of visually perceptible representations of the work, an applicant may, at his or her option, deposit four reproductions in the most complete form of the mask work as fixed in a semiconductor chip product.

(c) *Trade secret protection.* Where specific layers of a mask work fixed in a semiconductor chip product contain information in which trade secret protection is asserted, certain material may be withheld as follows:

(1) *Mask works commercially exploited.* For commercially exploited mask works no more than two layers of each five or more layers in the work. In lieu of the visually perceptible representations required under paragraph (b)(1) of this section, identifying portions of the withheld material must be submitted. For these purposes, *identifying portions* shall mean (i) a printout of the mask work design data pertaining to each withheld layer, reproduced in microform, or (ii) visually perceptible representations in accordance with paragraph (b)(1) (i), (ii), or (iii) of this section with those portions containing sensitive information maintained under a claim of trade secrecy blocked out, provided that the portions remaining are greater than those which are blocked out.

(2) *Mask work not commercially exploited.* For mask works not commercially exploited falling under paragraph (b)(2)(i) of this section, any layer may be withheld. In lieu of the visually perceptible representations required under paragraph (b)(2) of this section, “identifying portions” shall mean (i) a printout of the mask work design data pertaining to each withheld layer, reproduced in microform, in which sensitive information maintained under a claim of trade secrecy has been blocked out or stripped, or (ii) visually perceptible representations in accordance with paragraph (b)(2)(i) of this section with those portions containing sensitive information maintained under a claim of trade secrecy blocked out, provided that the portions remaining are greater than those which are blocked out. The identifying portions shall be accompanied by a single photograph of the top or other visible layers of the mask work fixed in a semiconductor chip product in which the sensitive information maintained under a claim of trade secrecy has been blocked out, provided that the blocked out portions do not exceed the remaining portions.

(d) *Special relief.* The Register of Copyrights may decide to grant special relief from the deposit requirements of this section, and shall determine the conditions under which special relief is to be granted. Requests for special relief under this paragraph shall be made in writing to the Associate Register for Registration and Recordation Program, Library of Congress, Copyright Office – RPO, 101 Independence Avenue, SE, Washington, DC 20559-6200, shall be signed by the person signing the application for registration, shall set forth specific reasons why the request should be granted and shall propose an alternative form of deposit.

(e) *Retention and disposition of deposits.* (1) Any identifying material deposited under this section, including material deposited in connection with claims that have been refused registration, are the property of the United States Government.

(2) Where a claim of protection in a mask work is registered in the Copyright Office, the identifying material deposited in connection with the claim

shall be retained under the control of the Copyright Office, including retention in Government storage facilities, during the period of protection. After that period, it is within the joint discretion of the Register of Copyrights and the Librarian of Congress to order its destruction or other disposition.

[50 FR 26719, June 28, 1985, as amended at 60 FR 34169, June 30, 1995; 73 FR 37840, July 2, 2008]

§211.6 Methods of affixation and placement of mask work notice.

(a) *General.* (1) This section specifies methods of affixation and placement of the mask work notice that will satisfy the notice requirement in section 909 of title 17 U.S.C. A notice deemed “acceptable” under this regulation shall be considered to satisfy the requirement of that section that it be affixed “in such manner and location as to give reasonable notice” of protection. As provided in that section, the examples specified in this regulation shall not be considered exhaustive of the methods of affixation and positions giving reasonable notice of the claim of protection in a mask work.

(2) The acceptability of a mask work notice under these regulations shall depend upon its being legible under normal conditions of use, and affixed in such manner and position that, when affixed, it may be viewed upon reasonable examination.

(b) *Elements of mask work notice.* The elements of a mask work notice shall consist of:

(1) The words *mask work*, the symbol “M” or the symbol “Ⓜ” (the letter M in a circle); and

(2) The name of the owner or owners of the mask work or an abbreviation by which the name is recognized or is generally known.

(c) *Methods of affixation and placement of the notice.* In the case of a mask work fixed in a semiconductor chip product, the following locations are acceptable:

(1) A gummed or other label securely affixed or imprinted upon the package or other container used as a permanent receptacle for the product; or