

Law on Trademarks, Service Marks and Appellations of Origin*
(of January 14, 1998)

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This Law governs the legal, economic and administrative relations that arise in connection with the registration, legal protection and use of trademarks, service marks and appellations of origin in the Kyrgyz Republic.

Title I General Provisions

National Office of Intellectual Property of the Kyrgyz Republic

1. In accordance with this Law, the National Office of Intellectual Property of the Kyrgyz Republic (hereinafter referred to as “Kyrgyzpatent”) shall apply a unified policy in the field of the protection of trademarks, service marks and appellations of origin in the Kyrgyz Republic, receive applications for the registration of trademarks and service marks and applications for the registration and acquisition of the right of use of appellations of origin, carry out the examination and official registration thereof, issue certificates, publish official data, enact the appropriate regulations and rules for the interpretation of the provisions of this Law and discharge other duties in connection with trademarks, service marks and appellations of origin as provided in the Ordinance on Kyrgyzpatent promulgated by the Government of the Kyrgyz Republic.

In order to strengthen its activities in the field of the legal protection of trademarks, service marks and appellations of origin, Kyrgyzpatent is provided with an Appeal Chamber, which shall be the mandatory first-instance tribunal for disputes concerning the subject matter in question, which it shall hear according to its competence. The procedures for the examination of oppositions by the Appeal Chamber shall be laid down by Kyrgyzpatent.

The sources from which the activities of Kyrgyzpatent are financed shall consist of credits in the budget of the Kyrgyz Republic, patent fees, the remuneration charged by Kyrgyzpatent in exchange for the services and documents provided by it, and other extrabudgetary resources.

Title II

Trademark or Service Mark

The Trademark or Service Mark

2. The trademark and the service mark (hereinafter referred to as “marks”) are signs serving to distinguish goods manufactured and services rendered by a natural person or legal entity from goods or services (hereinafter referred to as “goods”) of the same type manufactured or rendered by another natural person or legal entity.

Registration of the mark shall give rise to the issue of a certificate. The certificate shall attest the priority date of the mark and the exclusive right of the owner to the mark in connection with the goods specified in the certificate.

The mark may consist of

- (i) words or combinations of words;
- (ii) illustrations, devices or symbols;
- (iii) letters, figures or combinations thereof;
- (iv) three-dimensional shapes;
- (v) combinations of all the above elements;
- (vi) any other visible sign or combination of such signs.

A mark may be registered in any color or in any color arrangement.

The nature of the goods for which the mark is used may not prevent registration of the mark.

This Law shall not apply to holographic marks, with the exception of holographic marks that are visually distinguishable, or to marks that do not consist of visible signs, notably sound marks and olfactory marks.

Legal Protection of the Mark. Exclusive Rights in the Mark

3. The mark is accorded legal protection in the Kyrgyz Republic on the basis of an official registration carried out according to the provisions of this Law, or by virtue of international treaties to which the Kyrgyz Republic is party.

The mark may be registered in the name of a legal entity or in the name of a natural person who engages in a business activity.

The owner of the mark has the exclusive right of use and disposal of the mark, and the right to prohibit third parties from using the mark. No one may use a mark in the Kyrgyz Republic without having obtained authorization from the owner of that mark.

The manufacture, use, importation, offering for sale, sale and any other form of marketing, or the stocking for that purpose of a mark, a product designated by a mark or a sign misleadingly similar to a mark constitute, if they take place without authorization and if they relate to goods of the same type, infringements of the rights of the owner of the mark.

Substantive Grounds for Refusal of Registration

4. Marks may not be registered where they consist exclusively of signs or indications

- (i) that possess no distinctive character;
- (ii) that consist of the armorial bearings, flags or emblems of States;
- (iii) that constitute official denominations of States, emblems or abbreviated or full names of international organizations, official signs or hallmarks denoting control or warranty or assay marks, or decorations or other honorary signs, or signs misleadingly similar to such signs or indications; such signs or indications may be included in the mark as unprotected elements subject to the agreement of the competent body or their owner;
- (iv) that have become the usual designation for goods of a particular type;
- (v) that consist of everyday terms or symbols in relation to the goods for which they would be used as marks;
- (vi) that indicate the outward appearance, quality, quantity, properties, purpose or value of the goods or the place and time of their production or marketing.

The signs or indications referred to in subparagraphs (ii), (iv), (v) and (vi) of the first paragraph of this Article may be included in the mark as unprotected elements on condition that they do not predominate.

Signs or indications may not be registered as marks or as elements thereof where they

- (i) are inaccurate or liable to mislead the consumer concerning the product or its producers;
- (ii) are contrary to the general interest, humanitarian principles or morality.

Other Grounds for Refusal of Registration

5. Signs or indications may not be registered as marks where they are identical or misleadingly similar

- (i) to marks previously registered or the registration of which has been previously applied for in the Kyrgyz Republic in favor of a third party for goods of the same type, and the priority date of which is earlier;
- (ii) to marks of third parties protected—without registration—under international treaties to which the Kyrgyz Republic is party;
- (iii) to marks well known on the territory of the Kyrgyz Republic. The criteria that determine whether a mark is well known in the Kyrgyz Republic shall be laid down by the Government of the Kyrgyz Republic.

Signs and indications shall not be registered as marks where they are reproductions

- (i) of trade names (or parts of such names) known on the territory of the Kyrgyz Republic, and of denominations of plant varieties and animal breeds belonging to third parties whose right to those names or denominations arose at a time earlier than the filing date of the applications for protection of the mark;
- (ii) of appellations of origin;
- (iii) of the names of scientific, literary or artistic works known in the Kyrgyz Republic, or parts of such works, without the consent of the owner of the copyright or his successors in title;
- (iv) of surnames, forenames, pseudonyms and names derived therefrom, portraits and likenesses of known persons without the consent of those persons or their heirs and, if the

signs or indications form part of the historical and cultural heritage of the Kyrgyz Republic, without authorization from the Government thereof;

(v) of industrial designs the rights in which belong in the Kyrgyz Republic to third parties, if the priority of the industrial design is earlier than that of the mark in respect of which an application for registration has been filed.

Title III **Registration of the Mark**

Application for Registration of the Mark

6. The application for registration of the mark (hereinafter referred to as “the application”) shall be filed with Kyrgyzpatent by a person, whether natural person or legal entity, who engages in a business activity (hereinafter referred to as “the applicant”).

The application may be filed through a patent agent registered with Kyrgyzpatent or through another representative.

Foreign legal entities or natural persons resident outside the Kyrgyz Republic and their patent agents shall, in order to secure the registration of a mark, act through patent agents registered with Kyrgyzpatent.

The powers of the patent agent or other representative shall be attested by a power of attorney given him by the person in whose name a trademark certificate is applied for.

Kyrgyzpatent shall specify the procedure for the proficiency examinations and registration to which patent agents shall be subject, and shall take charge of their implementation.

The application shall relate to one mark only.

The application shall contain

(i) a request for registration of a sign as a mark, in which the name of the applicant and his headquarters or domicile shall be stated;

(ii) the sign to which the application relates and its description;

(iii) the list of goods for which the registration of the mark is sought, grouped according to the classes of the International Classification of Goods and Services for the Purposes of the Registration of Marks.

The application shall be written in either Kyrgyz or Russian.

The following documents shall be filed with the application for registration:

(i) proof of payment of the prescribed fee;

(ii) the regulations for use of the collective mark if the application filed is for the registration of a collective mark;

(iii) a certified true copy of the certificate attesting that the applicant is officially registered as a legal entity or individual entrepreneur, or an equivalent document.

The date on which Kyrgyzpatent receives the documents provided for in the seventh paragraph of this Article shall be considered the filing date of the application.

The documents enclosed with the application may be written in either Kyrgyz or Russian.

The conditions to be met by the documents constituting an application shall be laid down by Kyrgyzpatent.

Priority of the Mark

7. The priority of a mark shall be determined according to the date of filing with Kyrgyzpatent of an application meeting the conditions specified in Article 6 of this Law.

The priority of a mark may be determined by the filing date of the first application in a State party to the Paris Convention for the Protection of Industrial Property (Convention priority) if Kyrgyzpatent receives the application within six months following that date.

The priority of a mark affixed to a product displayed at an official or officially recognized international exhibition organized on the territory of one of the States party to the Paris Convention for the Protection of Industrial Property may be determined by the date as from which the product in question was on display to the public at the exhibition (exhibition priority) if Kyrgyzpatent receives the application within six months following that date.

The applicant who wishes to avail himself of Convention priority or exhibition priority must so state on filing the application for registration or within the two months following the date of receipt of the application by Kyrgyzpatent, and must enclose the documents justifying the validity of his claim or file those documents within three months following the date of receipt of the application by Kyrgyzpatent.

The priority of a mark may be determined according to the date of international registration of the mark in accordance with the international treaties to which the Kyrgyz Republic is party.

Examination of the Application for Registration of a Mark

8. Examination of the application shall be conducted by Kyrgyzpatent and shall comprise a preliminary examination and an examination of the sign to which the application relates.

During the two months following the filing date of the application, the applicant has the possibility of completing, specifying or correcting elements of the application on his own initiative without paying any surcharge.

Where the additional elements contain information concerning goods that did not figure in the application on the date on which it was filed, or if they materially alter the sign to which the application relates, they shall not be taken into consideration.

The applicant may withdraw his application at any stage in the prosecution thereof, but not after the date of entry of the mark in the Official Register of Marks of the Kyrgyz Republic.

Preliminary Examination

9. The application shall undergo preliminary examination on the expiry of a period of two months following the date of its filing with Kyrgyzpatent. The preliminary examination shall serve to verify the presence of the necessary documents specified in Article 6 of this Law and their conformity to the requirements of form, and the payment of the prescribed fee; it shall also serve to establish priority.

The applicant may file a written request for the preliminary examination to start before the expiry of the two-month period, in which case he shall lose the right provided for in the second paragraph of Article 8 of this Law as of the filing date of that request.

In the course of the preliminary examination, the applicant may be invited to supply additional elements, which he must do within two months. Kyrgyzpatent may authorize the extension of that period up to six months, at the applicant's request, on condition that the said applicant justifies his request with a legitimate excuse and pays the corresponding fee.

Where the applicant has not observed the specified time limit or has not responded to the invitation, the application shall be considered withdrawn.

Depending on the outcome of the preliminary examination, Kyrgyzpatent shall decide either to entertain the application or to refuse registration of the mark. The applicant shall be notified of the decision.

Examination of the Sign to which the Application Relates

10. The examination of the sign to which the application relates shall take place, after completion of the preliminary examination, within a period of 12 months following the date on which the application was entertained. It shall serve to ascertain whether the mark to which the application relates is identical or similar to marks with earlier priority dates that are affixed to goods in the same class, and whether it meets the conditions specified in Articles 6 and 7 of this Law.

The decision to register the mark or to refuse registration shall be based on the findings of the examination.

At any time in the course of examination of the application, Kyrgyzpatent is entitled to invite the applicant to supply the additional elements without which examination is impossible.

Where the applicant is invited by the examiner to supply additional elements, he must do so within two months following the date of receipt of the invitation. That period may be extended by a maximum of six months at the applicant's request, provided that he justifies his request with a legitimate excuse and pays the corresponding fee before expiry of the two-month period.

Where the applicant has not observed the time limit specified or has not responded to the examiner's invitation, the application shall be considered withdrawn.

The examination may give rise to a preliminary decision to refuse registration of the mark.

The applicant may respond to the preliminary decision within the two months following the date on which he received it. That period may be extended at the applicant's request, on condition that the request is received before the said period expires. The period for responding to the preliminary decision may not be extended by more than six months.

Where the applicant has not observed the time limit specified or has not responded to the preliminary decision, the decision shall be taken to refuse registration of the mark.

Appeal Against the Decision on the Application and Reinstatement of Rights Linked to Time Limits

11. In the event of disagreement with the decision taken at the end of the preliminary examination or with that taken at the end of the examination of the sign to which the

application relates, the applicant is entitled to appeal against the said decision before the Appeal Chamber of Kyrgyzpatent (hereinafter referred to as “the Appeal Chamber”) within three months following the date on which he received the decision. The appeal shall be examined by the Appeal Chamber within a period of four months following the date of its receipt.

The applicant may appeal before the courts against the decision of the Appeal Chamber within a period of six months following the date of receipt of the said decision.

The applicant is entitled to acquaint himself with the elements set down in the examiner’s decision.

The applicant may request a copy of the said elements within a period of a month following the date on which he received the decision on his application.

The applicant who has not observed the time limits specified in the third paragraph of Article 9 and the fourth paragraph of Article 10 of this Law and in the first and fourth paragraphs of this Article may have his rights reinstated by Kyrgyzpatent if he files a request to that end not later than two months following the expiry of the time limit concerned and if he justifies his request with a legitimate excuse and pays the corresponding fee.

Registration of the Mark

12. On the basis of the decision to register the mark, Kyrgyzpatent shall proceed to register it in the Official Register of Trademarks and Service Marks of the Kyrgyz Republic (hereinafter referred to as “the Register”) within a period of a month following the date of receipt of proof of payment of the prescribed fee.

The fee shall be paid within a period of two months from the date on which the applicant received the examiner’s decision to register the mark, or, subject to payment of a surcharge, within a period of three months following the expiry of the initial two-month period.

The registration procedure and the list of particulars entered in the Register shall be laid down by Kyrgyzpatent.

Publication of Registration Data

13. The data relating to the registration of the mark that have been entered in the Register shall be published by Kyrgyzpatent in the Official Bulletin during the three months following the date of registration of the mark or the date of entry in the Register of amendments concerning its registration.

Issue of the Trademark Certificate

14. The trademark certificate shall be issued by Kyrgyzpatent within three months following the date of publication of the mark in the Official Bulletin.

The layout of the certificate and the list of data appearing in it shall be specified by Kyrgyzpatent.

Period of Validity of the Mark

15. The period of validity of the mark shall be 10 years following the date on which the application for registration was filed with Kyrgyzpatent.

The period of validity of the mark may be extended by 10-year periods at the request of the owner, which request shall be filed in the course of the last year of validity of the registration, and against payment of a fee. The owner may, at his request and against payment of a surcharge, avail himself of an additional period of six months after the expiry of the term of the registration for the extension of the period of validity of the mark.

Kyrgyzpatent shall mention any extension of the period of validity of the mark in the Register and on the trademark certificate.

Amendments to the Registration

16. The owner of the mark shall notify Kyrgyzpatent of any amendment made to his business style, surname, forename or patronymic, any reduction in the list of goods for which the mark is registered, any modification of elements of the mark that have no bearing on its nature and any other amendment concerning the registration of the mark.

Any addition to the list of goods for which the mark is registered shall require the filing of a new application.

Any amendment shall be mentioned in the Register and on the trademark certificate against payment of a fee.

Registration of the Mark Abroad

17. Any natural person or legal entity of the Kyrgyz Republic has the right to have a mark registered abroad or to have it registered internationally.

The application for international registration of the mark shall be filed through Kyrgyzpatent.

Title IV Collective Mark

Right to the Collective Mark

18. Legal entities that represent a union, economic association, consortium or any other grouping of legal entities (hereinafter referred to as “associations”) may file an application for the registration of a collective mark for the designation of goods brought into circulation or manufactured by the association that possess common qualitative or other characteristics.

The application for registration of the collective mark shall be accompanied by two copies of the regulations of the collective mark, stating the corporate name and headquarters of the association, the list of legal entities authorized to use the mark, the purpose of its registration, the list and the common qualitative or other characteristics of the goods that will be identified by the collective mark, the conditions and procedure for the control of its use, and the sanctions provided for in the event of infringement of the regulations of the collective mark.

Registration of the Collective Mark

19. The registration of the collective mark shall take place in accordance with the provisions of Article 12 of this Law. In addition to the data provided for in that Article, information on the legal entities authorized to use the collective mark and also a mention of the regulations and their date shall be entered in the Register and on the certificate. That information shall be published in the Official Bulletin of Kyrgyzpatent. The owner of the

collective mark shall inform Kyrgyzpatent of any amendment made to the regulations of the collective mark.

Where a collective mark is used for goods that do not possess common qualitative or other characteristics, the validity of the registration may be terminated, either wholly or in part, on a court decision rendered at the request of any third party.

Title V Exploitation of the Mark

Exploitation of the Mark and Consequences of Failure to Exploit the Mark

20. Use of the mark on goods for which it has been registered or on the packaging thereof by the owner of the mark or any person to whom the right to use the mark has been granted under a license contract pursuant to Article 23 of this Law shall be deemed to constitute exploitation of the mark.

Use of the mark in advertising, in printed publications, on official headed notepaper, on signs or in conjunction with the display of goods at fairs or exhibitions taking place in the Kyrgyz Republic may likewise be deemed to constitute exploitation of the mark in so far as the non-use of the mark on goods or the packaging thereof is justified by legitimate reasons.

The persons, whether natural persons or legal entities, who engage in intermediary activity are entitled to use their own mark together with the mark of the manufacturer of the goods, or in place of the latter's mark, if they have so agreed with him by contract.

The validity of the registration of the mark may be terminated, either wholly or in part, on a court ruling, rendered at the request of any third party, where the mark has not been exploited for three years counted from the date of its registration or for three years as of the date of filing of the request.

The decision either to terminate or not to terminate the validity of the registration of the mark prematurely for want of exploitation may be made subject to the consideration of evidence produced by the owner of the mark showing that the failure to exploit it is due to reasons beyond his control, including restrictions imposed by the State on the goods for which the mark is registered.

Reserved Rights Notice

21. The owner of a mark may combine the mark with a reserved rights notice stating that the sign used is a mark registered in the Kyrgyz Republic.

Title VI Transfer of the Mark

Assignment of the Mark

22. A mark may be assigned contractually by its owner to a natural person or legal entity, either with or without the corresponding production or a part of it, in respect of all or some of the goods for which it is registered.

The contractual assignment of the mark shall not be allowed if it is liable to mislead the consumer as to the product or the qualities or manufacturer thereof.

The collective mark may not be assigned to third parties.

Licensing of the Exploitation of the Mark

23. The owner of a mark (the licensor) may grant the right to exploit the mark to a third party (licensee) under a license contract for one, several or all of the goods for which the mark is registered.

The license contract shall contain a clause under which the quality of the goods of the licensee shall not be lower than that of the goods of the licensor, and the observance of that clause shall be verified by the licensor.

Collective marks may not be the subject of a license contract.

Registration of the Contract of Assignment of the Mark and of the License Contract

24. The contract of assignment of the mark and the license contract shall be registered by Kyrgyzpatent and shall enter into force on the date of their registration. If they are not registered, they shall be deemed null and void.

Kyrgyzpatent shall not register the contract if it does not meet the conditions specified in Articles 22 and 23 of this Law.

Registration of the contract shall give rise to payment of the corresponding fee.

Title VII End of Legal Protection

Invalidation of the Registration of the Mark

25. The registration of the mark may be invalidated either wholly or in part at any time during its term if, when it was made, the conditions specified in Articles 3 and 4 of this Law were not met or, for the reasons specified in Article 5 of this Law, at any time during the five years following the date of publication of the registration particulars of the mark in the Official Bulletin.

Any person may, within the time limits provided for in the first paragraph of this Article, file opposition to the registration of the mark before the Chamber of Appeal. The opposition filed against the registration of the mark shall be considered within the four months following the date of its receipt.

The applicant may appeal to the courts against the decision handed down by the Appeal Chamber within the six months following the date of its receipt.

Cancellation of the Mark

26. The mark shall be cancelled by Kyrgyzpatent

(i) on the expiry of the period of validity provided for in Article 15 of this Law;

(ii) on a court decision to terminate the validity of the registration prematurely under the second paragraph of Article 19 of this Law where, in the case of a collective mark, the mark is used on goods that do not have common qualitative or other characteristics;

(iii) on a court decision to terminate the validity of the registration prematurely for want of exploitation of the mark, as provided in the fourth paragraph of Article 20 of this Law;

(iv) in the case of invalidation of the registration under Article 25 of this Law;

(v) in the case of liquidation of the legal entity or cessation of the business activity of the natural person owning the mark without a successor in title having been designated;

(vi) on a court decision where the mark has become an everyday designation for goods of a particular type;

(vii) on renunciation by the owner of the mark.

Title VIII **Appellation of Origin**

Appellation of Origin

27. An appellation of origin shall be constituted by the name of a country, locality, region or other geographical area (hereinafter referred to as “geographical area”) that serves to designate a product whose specific properties are determined exclusively or essentially by natural, human or both natural and human factors characteristic of the geographical area in question.

An appellation of origin may be constituted by the historical name of a geographical area.

A designation shall not be considered an appellation of origin where, even though it represents or contains the name of a geographical area, it has become the usual designation in the Kyrgyz Republic for a product of a particular type that has no connection with the place of manufacture of that product.

Source of Legal Protection

28. The appellation of origin shall enjoy legal protection in the Kyrgyz Republic on the basis of a registration effected according to the provisions of this Law or by virtue of international treaties to which the Kyrgyz Republic is party.

The appellation of origin shall be protected by law.

The registration of the appellation of origin may be applied for by one or more natural persons or legal entities. The person who has had the appellation of origin registered thereby obtains the right to use it on condition that the product manufactured by him meets the conditions specified in the first paragraph of Article 27 of this Law.

The right to use the appellation of origin, registered according to the established procedure, may be granted to any person, whether natural person or legal entity, who is located in the same geographical area and manufactures a product possessing the same properties.

The registration of the appellation of origin shall be valid without limitation in time.

Title IX
Registration and Right of Use of the Appellation of Origin

*Application for Registration and Acquisition of the Right to
Use the Appellation of Origin*

29. The application for registration and the grant of the right of use of the appellation of origin, or the application for the grant of the right of use of an appellation of origin that is already registered (hereinafter referred to as “the application”) shall be filed with Kyrgyzpatent by the applicant or applicants either in person or through a patent agent registered with Kyrgyzpatent.

The application shall relate to one appellation of origin only.

The application shall contain

— a request for registration and the grant of the right of use of the appellation of origin or for the grant of the right of use of an appellation of origin already registered, in which the applicant or applicants shall be named and his or their headquarters or domicile specified;

— the designation to which the application relates;

— the type of product for the designation of which registration and the right of use of the appellation of origin, or the right of use of an appellation of origin already registered, are applied for, with a mention of the place of manufacture (limiting the geographical area);

— a description of the specific properties of the product.

The application shall be written in either Kyrgyz or Russian.

The following documents shall be filed with the application:

— a notice from the competent body according to which the applicant is located in the geographical area specified and manufactures a product whose specific properties are determined by natural or human or both natural and human factors characteristic of the geographical area in question;

— in the case of a foreign applicant, proof of his right to the appellation of origin in question in the country of origin of the product;

— proof of payment of the prescribed fee.

The documents filed with the application may be written in either Kyrgyz or Russian. If the documents are written in another language, a Kyrgyz or Russian translation shall be filed with the application.

The conditions to be met by the documents constituting an application shall be established by Kyrgyzpatent.

Examination of the Application

30. The examination of the application shall be conducted by Kyrgyzpatent and shall comprise a preliminary examination and an examination of the designation that is the subject of the application.

Within the two months following the filing date of the application, the applicant has the possibility, on his own initiative, of completing, specifying or amending elements of the application, provided that the application is not materially altered thereby, without paying any

surcharge. Where the additional elements materially alter the application they shall not be taken into account and the applicant may file them in the form of a separate application.

In the course of the examination, Kyrgyzpatent has the right to request the applicant to supply additional elements without which examination is impossible.

Where the applicant is requested by the examiner to supply additional elements, he shall do so within a period of two months following the date of receipt of the request. Kyrgyzpatent may authorize the extension of that period for up to six months at the applicant's request, on condition that he provides a legitimate excuse and pays the corresponding fee. Where the applicant has not observed the time limit specified or has not responded to the examiner's request, the application shall be considered withdrawn.

The application shall undergo preliminary examination on the expiry of a period of two months following the date of its filing with Kyrgyzpatent. The preliminary examination shall serve to verify the presence of the requisite documents provided for in Article 29 of this Law, and their compliance with the requirements of form, and the payment of the fee.

The applicant may file a written request for the preliminary examination to start before expiry of the two-month period, in which case he shall lose the right provided for in the second paragraph of this Article as of the filing date of his request.

Depending on the finding of the preliminary examination, the applicant shall receive a notice informing him that his application has or has not been entertained.

Where the application is entertained, it shall, within a period of 12 months following the date on which it was entertained, undergo an examination to determine whether the designation to which it relates meets the conditions laid down in Article 27 of this Law.

The decision of Kyrgyzpatent to register the appellation of origin and grant the right to use it, or to refuse registration of the appellation of origin, shall be based on the examination findings.

The applicant may withdraw his application at any stage in its prosecution.

Appeal Against the Decision on the Application and Reinstatement of Rights Dependent on Time Limits

31. In the event of disagreement with the decision taken at the end of the preliminary examination or with the decision taken at the end of the examination of the designation to which the application relates, the applicant has the possibility of appealing against that decision before the Appeal Chamber within the four months following the date on which he received the decision.

The applicant may appeal to the courts against the decision handed down by the Appeal Chamber within a period of six months following the date on which he received that decision.

The applicant who has failed to observe the time limits provided for in the fourth paragraph of Article 30 of this Law and in the first paragraph of this Article may have his rights reinstated by Kyrgyzpatent if he files a request to that end not later than two months after the expiry of the time limit concerned, and if he provides a legitimate excuse and pays the corresponding fee.

*Registration of the Appellation of Origin and Issue of the Certificate
Attesting the Right to Use the Appellation of Origin.
Publication of the Data on the Registration and
the Right to Use the Appellation of Origin*

32. On the basis of the examiner's decision to register the appellation of origin and grant the right to use it subject to payment of the prescribed fee, Kyrgyzpatent shall proceed with the registration of the appellation of origin in the Official Register of Appellations of Origin of the Kyrgyz Republic (hereinafter referred to as "the Register").

The registration procedure and the list of particulars entered in the Register shall be specified by Kyrgyzpatent.

The fee shall be paid within a period of two months following the date on which the applicant received the examiner's decision to register the appellation of origin or, against payment of an additional fee, within a period of three months following the expiry date of that initial two-month period.

The particulars of the registration and of the right to use the appellation of origin that have been entered in the Register shall be published by Kyrgyzpatent in the Official Bulletin within the three months following the date of entry in the Register.

The certificate shall be issued by Kyrgyzpatent on the expiry of a period of three months following publication in the Official Bulletin.

The layout of the certificate and the list of particulars appearing in it shall be specified by Kyrgyzpatent.

*Period of Validity of the Certificate Attesting the Right
to Use the Appellation of Origin*

33. The period of validity of the certificate shall be 10 years following receipt of the application by Kyrgyzpatent.

At the request of the owner of the certificate, its period of validity may be prolonged, provided that the competent body confirms in a notice that the owner of the certificate is located in the geographical area concerned and manufactures a product possessing the properties specified in the certificate.

The request shall be filed in the course of the last year of validity of the certificate.

The period of validity of the certificate shall be prolonged by periods of 10 years.

The owner may, on request and against payment of a surcharge, avail himself of an additional six-month period after the expiry of the period of validity of the certificate for the prolongation of the said period.

Kyrgyzpatent shall mention any prolongation of the period of validity of the certificate in the Register and on the certificate itself.

Recording of Amendments in the Register and on the Certificate

34. The owner of the certificate shall notify Kyrgyzpatent of any amendment to his business style, surname, forename or patronymic and of any other amendment concerning the registration and the right of use of the appellation of origin.

Any amendment shall be mentioned in the Register and on the certificate subject to payment of a fee.

Registration of the Appellation of Origin Abroad

35. Any natural person or legal entity of the Kyrgyz Republic has the right to have the appellation of origin registered abroad.

The filing of an application for registration of the appellation of origin abroad shall take place after registration and the acquisition of the right of use of the appellation of origin in the Kyrgyz Republic.

Title X Exploitation of the Appellation of Origin

Exploitation of the Appellation of Origin

36. The use of the appellation of origin on a product or package or in advertising, prospectuses, headed notepaper or any other document associated with the marketing of the product shall be deemed to constitute exploitation of the appellation of origin.

Persons who are not owners of a certificate are not authorized either to exploit a registered appellation of origin or to exploit, for goods of the same type, a similar designation liable to mislead consumers as to the place of origin and specific properties of the product.

The owner of a certificate does not have the right to license the exploitation of the appellation of origin to third parties.

Reserved Rights Notice

37. The owner of a certificate may include with the appellation of origin a notice stating that the designation used is an appellation of origin registered in the Kyrgyz Republic.

Title XI End of the Legal Protection of the Appellation of Origin

Invalidation of the Registration of the Appellation of Origin and of the Certificate Attesting the Right to Use the Appellation of Origin

38. The registration of the appellation of origin may be invalidated if, when it was made, the conditions specified in this Law were not met.

The validity of the appellation of origin may be terminated where the characteristic factors of the geographical area concerned no longer exist and where consequently it is impossible to manufacture a product possessing the properties stated in the Register.

In the case of an appellation of origin registered in the name of a foreign person, whether natural person or legal entity, its validity shall likewise be terminated, as well as for the above reasons, where that person has lost his right to the appellation of origin concerned in the country of origin of the product.

The certificate attesting the right to use the appellation of origin may be invalidated where the conditions specified in this Law were not met at the time of its issue.

The validity of the certificate may be terminated

- where the product no longer possesses the specific properties mentioned in the Register for the appellation of origin in question;
- in the case of cancellation of the appellation of origin;
- in the case of liquidation of the legal entity or cessation of the business activity of the natural person owning the certificate without a successor in title having been designated;
- on renunciation by the owner of the certificate, submitted to Kyrgyzpatent.

Any person may, for the reasons set forth in the first, second, third and fourth paragraphs of this Article, file opposition before the Appeal Chamber to the registration of the appellation and the issue of the certificate attesting the right to use the appellation of origin. The opposition shall be considered within the four months following the date of its receipt. The opponent and the owner of the certificate may take part in the consideration of the opposition.

The applicant may appeal to the courts against the decision handed down by the Appeal Chamber within the six months following the date on which he received that decision.

Title XII **Final Provisions**

Fees

39. The performance of legal acts relating to the registration of marks and to the registration and acquisition of the right of use of appellations of origin shall give rise to the payment of fees. Fees shall be paid to Kyrgyzpatent.

The list of acts the performance of which gives rise to the payment of fees, the amount and time limits for payment of those fees, and also the conditions governing exemption from fees or the reduction or repayment of fees, shall be determined by the Government of the Kyrgyz Republic.

Fees shall be paid to Kyrgyzpatent by the applicant, the owner of the mark or the owner of the certificate attesting the right to use the appellation of origin or, with their agreement, by any natural person or legal entity.

Kyrgyzpatent shall devote the full amount of the resources that it collects, including those in currency, in fees and in remuneration for the services and documents that it provides, to the acquisition of technical equipment, the development and operation of automated systems, the enlargement of the collection of patent documents and the training and motivation of the staff.

Consideration of Disputes Arising from the Implementation of this Law

40. The courts shall be competent to hear disputes arising from the implementation of this Law in accordance with the procedure laid down in the legislation of the Kyrgyz Republic, and in particular disputes concerning

- (i) infringements of the exclusive right to a mark;
- (ii) the conclusion and execution of a license contract or contract for the assignment of the mark;
- (iii) unlawful use of an appellation of origin;

(iv) failure to exploit the mark as provided in Article 20 of this Law.

The Appeal Chamber shall consider disputes within its jurisdiction in accordance with this Law.

Sanctions for Unlawful Use of the Mark or Appellation of Origin

41. Any person who, in a manner not conforming to the provisions of this Law, uses a mark or appellation of origin or a sign or designation similar to a mark or appellation of origin, for goods of the same type shall incur civil, administrative or criminal liability in accordance with the legislation of the Kyrgyz Republic.

The unlawful use of a mark may give rise to the following civil sanctions, independently of the filing of a request for cessation of the infringement or for indemnification for prejudice sustained:

— publication of the court decision for the purposes of the restoration of the business reputation of the injured party;

— removal from the product or its packaging of the unlawfully used mark or of the sign misleadingly similar to the mark, or destruction of existing reproductions of the mark or of the sign misleadingly similar to the mark;

— seizure or destruction of the goods for which the mark has been unlawfully used.

Any person who includes a reserved rights notice with a mark or appellation of origin that is not registered in the Kyrgyz Republic shall be liable to the sanctions provided for in the legislation of the Kyrgyz Republic.

Any person who unlawfully uses a registered appellation of origin or a designation similar to such an appellation shall be bound, at the request of the owner of the certificate attesting the right to use the appellation of origin, a social organization, a State organization or the Prosecutor,

— to desist from the use and to indemnify all injured parties for the prejudice sustained, and to pay to the budget of the local community the amount of the profits derived from the unlawful use of the appellation of origin after deduction of the indemnification;

— to have the court decision published for the purposes of the restoration of the business reputation of the injured party;

— to remove from the product or its packaging the unlawfully used appellation of origin or the designation misleadingly similar to the appellation of origin, or to destroy existing reproductions of the appellation of origin or of the designation misleadingly similar to the appellation of origin.

The removal of the mark or appellation of origin from the product or its packaging and the seizure or destruction of the product to which an unlawfully used mark has been affixed shall be done with due regard to the right that the owner of that product has to defend his rights in accordance with the procedure provided for in the law.

Rights of Foreign Natural Persons and Legal Entities

42. [By virtue of the international treaties to which the Kyrgyz Republic is party]*, or on the basis of the principle of reciprocity, foreign natural persons and legal entities shall enjoy the rights provided for in this Law and in other normative legal enactments relating to

the legal protection of marks and appellations of origin on the same footing as natural persons and legal entities of the Kyrgyz Republic.

International Treaties

43. Where an international treaty to which the Kyrgyz Republic is party provides rules different from those laid down in this Law, the provisions of the international treaty shall be applicable.

Entry into Force of this Law

44. The Law of the Kyrgyz Republic on Trademarks and Service Marks and Appellations of Origin shall enter into force on the date of its publication.

* *Official Russian title:* Закон о товарных знаках, знаках обслуживания и наименованиях мест происхождения товаров.

Entry into force: January 28, 1998.

Source: Communication from the Kyrgyz authorities.

Note: Translation by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.

* The text in square brackets has been added by the International Bureau of WIPO for clarity (*Editor's note*).