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**LAW OF THE KYRGYZ REPUBLIC**  
**On changes and additions in some legislative acts**  
**of the Kyrgyz Republic**

**Article 1.**

The Patent Law of the Kyrgyz Republic (Bulletin of the Jogorku Kenesh 1998, N 3, Article 69) is amended as follows.

1. The whole text of the Law is amended:

by striking "protected document" in all grammar forms and inserting "patent" in all grammar forms;  
by striking "preliminary patent", "certificate", "certificate for", "or certificate" in all grammar forms.

2. Article 2:

The Article title is amended as follows: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property";

the first paragraph is amended by striking "State Agency of Intellectual Property under the Government of the Kyrgyz Republic and inserting "The representative State body of the Kyrgyz Republic in the field of Intellectual Property".

3. Article 3 is amended:

the first paragraph to read as follows: "The industrial Property Right of subject - matter is protected by this Law and confirmed by the patent that certifies priority, authorship and patent owner exclusive right for this industrial property subject-matter";

by striking the second and the third paragraphs;

by regarding paragraphs 4 and 5 as paragraphs 2 and 3 respectively;

4. Article 4 is amended as follows:

"Article 4. Term of a patent

Patent for an invention shall be effective during twenty years as of the date of submission the application to Kyrgyzpatent. At the request of the owner, Kyrgyzpatent may extend the effective period of the patent for an invention related to pharmaceuticals for a term not longer than five years.

The patent for utility model shall be effective within the period of five years as of the date of file of an application with Kyrgyzpatent. At the request of the owner, Kyrgyzpatent may extend the effective period of the patent for an invention for utility model for a term not longer than three years.

Patent for an industrial design shall be effective within ten years as of the date of file an application with Kyrgyzpatent. At the request of the patent owner, Kyrgyzpatent may extend the effective term of the patent for an industrial design for a term not longer than five years".

5. Article 7 is amended:

by adding at the first paragraph the following: "At that a term "article" means industrial or home-made good";

by striking "and industrial applicaion" from paragraph 2;

by striking paragraph 7;

by regarding paragraphs 8, 9 as paragraphs 7 and 8 respectively.

6. Article 11 is amended as follows:

the first paragraph is amended by striking "preliminary patent, patent for an invention, for a design, certificate - utility model" and inserting "patent for industrial property subject-matter";

by adding at the Article the following second paragraph: "The exclusive right to protected Intellectual Property subject-matters appears since the date of publication of the information concerning patent issue in the Official Bulletin issued by Kyrgyzpatent";

paragraphs 4 and 5 to read as follows: "Manufacture, application, import, offer for sale, sale and any other introduction to the economic turnover or storage of a product for this purpose that contains objects of industrial property protected by a patent as well as exploitation of the method protected by a patent for an invention shall be considered as the exploitation of an object property.

The product shall be deemed containing an invention protected by a patent for invention, utility model if it contains every feature of the invention, utility model listed in an independent point of the formula or a feature equivalent thereto, which is known as such in this field of technology at the date of beginning exploitation. The method protected by patent for an invention shall be deemed applicable if every feature of the invention listed in an independent point of the formula or equivalent to it feature which is known as such in the field of technology on the date of beginning the exploitation is applied";

by regarding paragraphs 2-11 as parts 3-12 respectively.

7. Article 14 is amended:

by adding at the Article title following: "and Provisional Legal Protection";

the first paragraph is amended:

by striking "of inventions, utility model, industrial design" and inserting "intellectual property subject-matter";

by adding "of such use";

by adding at the Article following paragraphs 3-8:

"The claimed invention since the date of publication of the information concerning application to the date of publication of the information concerning patent issue is provided by provisional legal protection in the scope of published formula but no more than the scope determined by the formula contained in the issued patent.

Provisional legal protection shall not be considered if an application was withdrawn or considered as withdrawn or if decision on the refusal in patent issue was made and the possibilities for its appeal are exhausted.

Any natural person or legal entity, using the claimed invention within the provisional legal protection period shall pay an appropriate pecuniary compensation to the patent owner after patent getting. Size of this compensation shall be determined by the agreement between appropriate parties.

Provision of paragraph 5 of this Article also covers the objects of industrial property since the date of placement of means containing such objects of industrial property at official or officially recognized international exhibition arranged on the territory of member-state of the Paris Convention on Industrial Property Protection, provided that an application for patent grant was filed with Kyrgyzpatent no later than six months since indicated date.

A person beginning the use of the object of industrial property since priority date but before the date of publication of the information concerning application for granting of a patent for invention as well as information concerning registration of utility models or industrial designs must dissolve a further use at the request of an applicant.

However such person must not pay applicant's damages incurred as a result of such use. In case of failure to execute the applicant's request provided by paragraph 7 of this Article the infringer is liable for the infringement of rights of patent owner in accordance with the Law of the Kyrgyz Republic."

8. The first paragraph of the Article 16 is amended as follows:

"The use of an object of industrial property protected by a patent without maintenance of conditions established by the present Law is considered violation of a patent."

9. The fourth paragraph of the Article 17 is amended by adding following:

"except the procedures related to establishing date of application filing, fees payment, provision of the copy of previous application, if conventional priority is required, provision of the copy of the application filed earlier, getting of receipts and notifications of Kyrgyzpatent in respect of above-mentioned procedures, fee payment for maintenance of the patent."

10. Article 18 is amended by striking paragraph 6.

11. Article 19 is amended:

by striking "certificate" in the article title, in the first paragraph and in the point 1 of the second paragraph and inserting "patent";

by striking paragraph 6.

12. Article 20 is amended as follows:

the title and whole text is amended by striking: "preliminary patent" and "preliminary patent or";

by striking paragraph 6.

13. Article 21 is amended as follows:

the Article title is amended: "Priority of the Object of Industrial Property";

the first paragraph is amended as follows:

"Priority of an invention and utility model shall be established on the date of file of an application with Kyrgyzpatent, which contains the following:

1) application for the grant of a patent for invention, utility model — with indication of applicant;

2) description of invention, utility model or part of description of invention, utility model, including all essential features of the claimed invention, utility model or draught as an element of mentioned description or a reference to application of any kind filed earlier provided by paragraphs 6-10 of this Article. If the application does not contain above-mentioned documents, Kyrgyzpatent shall notify promptly the applicant on necessity of submission of these documents within two months since the date of receipt of this notification";

the second paragraph is amended as follows:

"Priority of an industrial design shall be established on the date of file of an application with Kyrgyzpatent containing the following:

1) application for the grant of a patent for industrial design with indication of the applicant;

2) a set of depiction of article (model), a list of essential features of an industrial design. If the application does not contain required documents Kyrgyzpatent shall notify promptly the applicant on necessity of submission of these documents within two months since the date of receipt of this notification";

the third paragraph is amended by adding: "The day of filing of the original application is not included to calculation of the said terms";

the fifth paragraph to read as follows:

"An applicant wishing to use the right of conventional priority must indicate this during filing of an application or during two months from the date of file of an application with Kyrgyzpatent and attach a copy of the initial application or present it not later than four months from the date of receipt of the application by Kyrgyzpatent";

the tenth paragraph is amended by striking: "invention, utility model, industrial design" and inserting: "industrial property subject-matter".

14. Article 23 is amended as follows:

"Article 23. Examination of the Application for an Invention

Kyrgyzpatent shall conduct formal and preliminary examination of an application.

At the petition of the applicant, which can be filed with Kyrgyzpatent simultaneously with application filing or within 30 months since the date of filing, consideration of the application can be made with or without examination on the essence. If petition is not submitted within said period, the application is considered as withdrawn".

15. The Law is amended by adding articles 23-1 and 23-2.

"Article 23-1. Formal Examination of the Application for an Invention

During the formal examination of the application for an invention within two-month-period the constitution and accuracy of required documents provided by Article 18 of this Law are checked as well as accordance of the claimed proposal to the objects for which the legal protection is provided.

If after completion of formal examination it is determined that application is filed for proposal not related to the objects for which the legal protection is provided, the decision on refusal on patent grant is made.

If an application is filed with violations of requirements prescribed to registration and compilation, the applicant shall receive a request with proposal to submit corrected or absent materials within two-month-period since the date of receipt of the request.

If applicant shall not submit requested documents or petition for prolongation of effective terms, the application is considered as withdrawn.

If the application meets all the requirements of formal examination, a notification that the application is accepted for consideration shall be sent to the applicant.

Article 23-2. Preliminary Examination of the Application for an Invention

While conducting preliminary examination, Kyrgyzpatent within ten-month-period shall check compliance of

the prescribed requirements to contents of the application documents, compliance of the claimed invention with the criteria of patentability of the materials of an application provided by the applicant, non-withdrawn applications with an earlier priority, the fund of issued protected documents of the Kyrgyz Republic, as well as published Eurasian applications and patents and shall establish the priority of the invention and check compliance of the application with requirements for the unity of the invention.

The applicant upon the payment of appropriate fee may submit a petition for conduct of rapid preliminary examination for the application for invention. In the event that before expiration of twelve-month-period since the date of filing of the application with Kyrgyzpatent or when priority is required since the date of priority, the decision on patent grant is made or patent is granted and similar application concerning vindication of earlier priority is filed, the decision on patent grant or patent is cancelled.

If the applicant, in accordance with Article 22 of this Law, provided additional materials, in the course of the preliminary examination it shall be checked, that they do not change the essence of the claimed invention.

Additional materials shall change the essence of the claimed invention if they contain features that are supposed to be included into the formula of an invention which have been absent from the initial materials of an application. Additional materials of the part, which change the essence of the claimed invention, shall be taken into account in the course of consideration of an application and may be registered by the applicant as an independent application.

On applications, which had been filed with violations of the requirements of unity, an applicant shall be offered to inform, within two-month-period, which of the proposals must be considered, and clarify documents of the application.

Other decisions, included in the materials of the initial application, may be formalized as separate applications.

In the event, if the applicant within two months from the date of receipt of the notification on the violation of the requirement of the unity of an invention does not inform which of the proposals should be considered and does not submit specified documents, the first mentioned in the formula proposal shall be considered.

During the preliminary examination Kyrgyzpatent may request from the applicant any additional materials, which are necessary for examination conduct. The additional materials by the request of examination should be submitted within two-month-period since the date of receipt of the request.

In the event, if the applicant fails to provide required materials or the petition for extension of the established term, within the indicated term, the application shall be deemed withdrawn.

On the application, which has passed preliminary examination with a positive result, a decision to grant preliminary patent shall be made which is granted under responsibility of the applicant.

According to the results of preliminary examination in the presence of petition to conduct examination on the essence or in the absence of said petition or petition on patent grant without examination of the application on the essence, the applicant shall receive a notification.

If in the result of the preliminary examination it is established that the claimed proposal is not patentable, a decision on refusal to grant a patent shall be made.

The applicant may file an objection to this decision with the Appellate Council within two months after the receipt of refusal to grant a patent. The Appellate Council must consider the objection within two months as of the date of its receipt.

In the event the applicant does not agree with the decision of the Appellate Council he may appeal to court within six months as of the date of its receipt.

After expiration of 18 months since the date of application filing or if priority is required since the date of priority Kyrgyzpatent shall publish the information related to the application in Official Bulletin with the exception of cases when application is withdrawn or when decision on patent grant or refusal is made. Kyrgyzpatent shall determine the list and completeness of published information.

On the applicant's petition provided that appropriate fee is paid Kyrgyzpatent may publish the information related to application till 18 months since the date of its filing, or if priority is required since the date of priority.

While petition on patent grant without examination on essence is filed after preliminary examination completion, the decision on patent grant is made within two-month-period since the date of receipt of said petition".

16. Article 24 is amended as follows:

"Article 24. Examination of Application for Invention on Essence/Substance

Kyrgyzpatent within 18 months since the date of petition submission shall conduct examination of the application on the essence. An applicant shall be notified about petitions submitted by the third parties.

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During conduct of the examination on the essence compliance of the claimed invention to conditions of patentability specified in Article 5 of this Law.

During examination of an application on substance Kyrgyzpatent shall be entitled to request the applicant to submit materials without which examination procedure is not possible, including changed formula of the invention.

Additional documents on the request of examination shall be submitted without changing the essence of the invention during two months from the date of receipt of the request.

The order established by paragraphs 11 and 12 of this Article shall extent to additional documents in the part that changes the essence of an invention.

If in the result of scientific-technological examination of an application on essence Kyrgyzpatent finds that the claimed proposal, within the scope of legal protection required by an applicant, meets the requirements of patentability of the invention, the decision to grant a patent with the formula of an invention suggested and agreed with the applicant is made.

If the claimed proposal does not meet the requirements of patentability within the scope of legal protection required by an applicant, the decision on rejection to grant a patent shall be issued.

The applicant may file an objection against the decision on rejection to grant a patent with the Appellate Council during three months from the date of its receipt. The objection must be considered by the Appellate Council during four months from the date of its receipt.

Should the applicant not agree with the decision of the Appellate Council he may, within six months from the date of its receipt, appeal to court.

The applicant shall have the right to familiarize himself with all the materials indicated in the decision of examination or in the search report. Copies of the patent materials requested by the applicant shall be sent by Kyrgyzpatent during one month from receipt of the request.

The terms provided in Article 23-1, 23-2 and this Article, except for the terms established in paragraph 15 of Article 23-2 and paragraphs 9 of this Article, elapsed by the applicant, may be reinstated by Kyrgyzpatent in the presence of proof of excusable reasons and payment of the fee.

The petition to reinstate the term may be filed by an applicant not later than twelve months from the date of expiration of the elapsed term.

Both applicant and third parties may submit a petition on informational search conduct on the application for invention to determine technical level in comparison with which valuation of patentability of the invention is made. Kyrgyzpatent determine the order of informational search and information provision".

17. Articles 25-28 are amended as follows:

"Article 25. Examination of the Application for a Utility Model

Examination of the application for utility model shall consist of formal and preliminary examination.

During formal examination of an application for utility model the provisions of Article 23-1 of the present Law shall be applied appropriately.

During preliminary examination of an application for utility model the provisions of paragraphs 1-10 and 13-15 of Article 23-2 as well as paragraph 13 of Article 24 of the present Law shall be applied appropriately.

If an application for utility model has successfully passed the preliminary examination, the decision to grant a patent for utility model shall be made.

Article 26. Reorganization of Applications

Before publication of the information on the application for an invention but no later than date of receipt of the decision on patent grant, an applicant has the right to reorganize the application for invention by filling an appropriate declaration to the application for the utility model.

In the case of indicated reorganizations of applications the priority of the original application is preserved.

Article 27. Examination of the Application for an Industrial Design

Kyrgyzpatent shall conduct formal and preliminary examination of the application for an industrial design.

According to applicant's petition, which can be submitted simultaneously with application filing or within twelve months since the date of filing, the application consideration may be arranged with or without examination on the essence. If the petition shall not be submitted within said terms, the application should be considered as withdrawn.

During formal examination of the application for an industrial design, provisions of Article 23-1 of this Law shall be applied appropriately. During preliminary examination of the application Kyrgyzpatent within four months shall check compliance of prescribed requirements to the contents of the application documents, compliance of the claimed industrial design to the conditions of patentability according to materials of the application provided by the applicant, fund of issued protected documents of Kyrgyzpatent, non-withdrawn applications with earlier priority, and shall check compliance of the application to requirements of industrial design unity.

During preliminary examination of the application for an industrial design, provisions of paragraphs 3-15, 18 of Article 23-2 of this Law shall be applied appropriately.

According to applicant's or third parties' petition Kyrgyzpatent within twelve months since the date of petition submission shall conduct the examination of the application on the essence. An applicant shall be notified about petitions submitted by the third parties.

During examination of an application on the essence, provisions of paragraphs 2-13 of Article 24 of this Law shall be applied appropriately.

#### Article 28. Registration of the Objects of Industrial Property, Publication of the Information on Patent Granting and Granting of the Patent

After the decision to grant a patent is made, provided that the fee for registration and granting of a patent is paid, Kyrgyzpatent shall enter in the State Register of Inventions of the Kyrgyz Republic, the State Register of Utility models of the Kyrgyz Republic or the State Register of Industrial Designs of the Kyrgyz Republic the invention, utility model or an industrial design respectively.

In the event that there are several persons in whose names the patent is required, only one patent shall be granted them.

The document certifying payment of the fee for registration and grant of a patent shall be provided within two months as of the date the applicant receives the decision to grant a patent or within three months after the date of expiration of two-month-period under the condition of payment of additional fee.

In the event the document certifying payment of the fee for registration and grant of the patent is not provided in the established order, registration of the object of industrial property, publication and grant of the patent shall not be carried out and the application shall be considered withdrawn.

Kyrgyzpatent shall determine the list and completeness of the information published in the Official Bulletin.

After publication of the information related to patent grant, any person has a right to become acquainted with materials of the application.

Kyrgyzpatent shall determine the patent form and composition of the information provided.

In case of finding the obvious and technical errors, on the request of patent owner and author Kyrgyzpatent shall make appropriate corrections into granted patent without payment of the fee".

18. Articles 29-30 are struck.

19. Article 32 is amended as follows:

"Article 32. Invalidation and Termination of Patents

The patent shall fully or partly be invalidated on the grounds of the Appellate Council decision or court decision entered into effect.

The period of validity of patents shall be terminated, if:

- 1) the period of validation of a patent provided in accordance with this Law is expired;
- 2) the fee, in order to support a patent, is not paid in the established term;
- 3) on the basis of a declaration filed by the patent owner with Kyrgyzpatent if the refusal does not violate the interests of the third parties — since the date of publication of the information related to ahead of schedule termination of the patent validity due to declaration of the patent owner.

Kyrgyzpatent shall publish information on the ahead of schedule termination of a patent in the Official Bulletin".

20. The Law is amended by adding Article 41:

"Article 41. Transitional Provisions

In accordance with alterations and additions made into this Law related to transition to unified protected document (patent) the following was established:

1) regarding applications for grant of preliminary patent of the Kyrgyz Republic for invention or industrial design, which were filed before entering into effect of the Law providing the transition to unified protected document (patent), the applicant has a right to submit a petition for granting of the patent of the Kyrgyz Republic for invention or industrial design with the examination on the essence or for granting of the patent under applicant's responsibility, provided that appropriate fees are paid. If the applicant does not take appropriate measures, the application shall be considered withdrawn.

2) regarding effective preliminary patents of the Kyrgyz Republic for invention or industrial design, which five-year-period since the date of application filing is not expired before entering into effect of the Law providing transition to unified protected document (patent), the owner of preliminary patent has a right to submit a petition on granting of the patent of the Kyrgyz Republic for invention or industrial design with examination on the essence. In case of absence of such petition, preliminary patent of the Kyrgyz Republic shall be reregistered as a patent of the Kyrgyz Republic under the applicant's responsibility for residuary terms;

3) effective preliminary patents of the Kyrgyz Republic for invention or industrial design, which five-year-period since the date of application filing is expired before entering into effect of the Law providing transition to unified protected document (patent), shall be reregistered as patents of the Kyrgyz Republic under the applicant's responsibility for residuary terms;

4) regarding applications for granting of the certificate of the Kyrgyz Republic for utility model filed before entering into effect of the Law providing transition to unified protected document (patent), the decision on granting of the patent of the Kyrgyz Republic for utility model is made, provided that all appropriate fees are paid;

5) effective certificates of the Kyrgyz Republic for utility models shall be reregistered as the patent of the Kyrgyz Republic for utility model.

Kyrgyzpatent shall determine the terms and order of above-mentioned procedures".

21. Article 41 is regarded as Article 42.

**Article 2.**

The Law of the Kyrgyz Republic "On Trademarks, Service marks and Appellation of Origin" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, N 3, 1998, Art. 68) is amended as follows:

1. Article 1:

the Article title is amended as follows: "The State body in the field of Intellectual Property";

the first paragraph is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic" and inserting: "The authorized state body in the field of Intellectual Property".

2. Article 2:

the third paragraph is amended as follows:

"Verbal, visual, three-dimensional and other designations or its combinations may be registered as trademarks".

the sixth paragraph is amended as follows:

"The present Law shall not be applicable to visually indistinguishable, as well as to sound and olfactory marks".

3. Article 3 is amended by adding fifth and sixth paragraphs:

"The exclusive right for a trademark shall arise since the date of publication of the information related to registration of a trademark in the State Register of the Trademarks (hereinafter referred to as Register), in the Official Bulletin, issued by Kyrgyzpatent.

Unauthorized use of designation identical or similar to the extent likely to cause confusion with trademark of such owner, as a website in Internet is recognized as infringement of a right of trademark owner as well. The order of

use of a trademark or designation similar with the latter to the extent likely to cause confusion, as a website in Internet is established by the Government of the Kyrgyz Republic".

4. Article 4:

the first paragraph:

subparagraph 2 is amended as follows:

2) represent state coats of arms, banners or emblems, official names of countries, emblems, abbreviated or full names of international organizations, official, control, guarantee and assay marks, seals, awards and other marks of distinction or those similar to them to the extent likely to cause confusion. Such designations may be included in a trademark as non-protected elements, if there is a consent of an appropriate competent body or the owner";

subparagraph 3 is struck;

subparagraph 6 is amended as follows:

"6) pointing to the appearance, quality, quantity, properties, purpose, value of products as well as to the place and time of their manufacture or sale";

subparagraphs 4-6 are regarded as subparagraphs 3-5 respectively;

the second paragraph is amended by striking: "in subparagraphs 2, 4, 5 and 6" and inserting: " in subparagraphs 2, 3, 4 and 5";

the third paragraph is amended:

by adding the subparagraph 2:

"2) the ones representing or containing the pointing to the place of origin of wines or strong alcoholic drinks protected by virtue of international agreements of the Kyrgyz Republic, if such designations are intended for wines or strong alcoholic drinks, which do not originate from indicated places as well as formally pointing to the real place of production of goods but giving a false idea concerning goods origin from other territory;

paragraph 2 is regarded as paragraph 3.

5. Article 5 is amended as follows:

" Article 5. Other Grounds for Refusal in Registration

The following designations, which are identical or similar to the extent likely to cause confusion with:

1) trademarks earlier registered or filed for registration in the Kyrgyz Republic on the name of another person with respect to the similar goods, which have an earlier priority;

2) firm names registered or filed for registration in the Kyrgyz Republic— regarding identical or similar kinds of activities or goods and ser

3) other persons' trademarks protected without registration by virtue of international agreements of the Kyrgyz Republic,

can not be registered as trademarks for similar goods.

The following designations, which are identical or similar to the extent likely to cause confusion with:

1) recognized in established order as well-known trademarks in the territory of the Kyrgyz Republic. The well-known criteria for a trademark and order of well-known recognition are established by the Government of the Kyrgyz Republic;

2) appellations of origin protected in accordance with this Law, except the cases when it is included as non-protected element into a trademark registered in the name of person which has a right to use such appellation,

can not be registered as trademarks for any goods.

The following designations, which are reproducing:

1) known in the territory of the Kyrgyz Republic firm names (or its parts) regarding similar goods, belonged to other persons, obtained the right for such designations before the date of priority of the application for trademark regarding similar goods;

2) names of works of science, literature and art or fragments thereof known in the Kyrgyz Republic, without consent of the owner copyright or his legal successors;

3) names, surnames, pseudonyms and derivatives thereof, portraits and facsimiles of famous persons without the consent of these persons, their heirs, in the event if such designations are the property of history and culture of the Kyrgyz Republic - without permission of the Government of the Kyrgyz Republic;

4) industrial designs, rights to which belong to the other persons in the Kyrgyz Republic, if an industrial design has the earliest priority as compared to an application for the registration of a trademark,

shall not be registered as trademarks".



6. Article 6:

subparagraph 2 of the paragraph 7 is amended by striking: "and its description";

paragraph 9 is amended:

by adding at the paragraph the subparagraph 2:

"2) the designation claimed";

by striking subparagraph 3;

by adding at the tenth paragraph after words "present Article": "if the documents are submitted non-simultaneously, the date of submission of an application is considered the date of receipt of the latter one";

eleventh paragraph to read as follows: "Kyrgyzpatent shall establish the requirements to the application documents".

7. Article 7:

the first paragraph is amended by adding after the word "requirements": "of the part 7";

the second paragraph is amended by striking: "if the application was applied to Kyrgyzpatent within 6 months from the set date" and inserting: "if the application has been filed with Kyrgyzpatent within six months from the set date. The day of filing of the first application is not included into calculation of this term";

the third paragraph is amended by striking: "if the application for a trademark was applied to Kyrgyzpatent within 6 months from the set date" and inserting: "if the application for a trademark has been received by Kyrgyzpatent within six months from the established date";

the fourth paragraph is amended by striking: "from the date of entering" and inserting: "of the date of receipt".

8. Article 8:

the second paragraph to read as follows:

"During the examination before making a decision the applicant shall be entitled to add, specify or correct the materials of the application";

the fourth paragraph is amended by striking: "Trademarks State Register of the Kyrgyz Republic" and inserting: "the Register".

9. Article 9 is amended:

the first paragraph to read as follows:

"Preliminary examination of an application shall be conducted during one month date of submission of the application. During preliminary examination, the composition of the required documents, provided by paragraph 3 of Article 2 and Article 6 of this Law";

by striking the second paragraph;

the fifth paragraph to read as follows:

"Based on the results of the preliminary examination, a decision made whether to accept an application for consideration or to refuse it";

parts 3-5 are regarded as parts 2-4 respectively;

by adding at the Article fifth and sixth paragraphs:

"Notification on the refusal decision made shall be sent to the applicant.

A decision concerning accept of the application to consideration and positive result of preliminary examination as well as the date of application filling in accordance with the part 7 of the Article 6 of this Law shall be sent to the applicant".

10. Article 10 is amended as follows:

the first paragraph to read:

"Examination of the claimed designation shall be conducted after completion of the preliminary examination within the term of 12 months, starting from the date when the application was filed";

by adding at this article the second paragraph:

"During the examination a compliance of the claimed designation to the requirements established by paragraph 1 of Article 2, Articles 4 and 5 of this Law is checked and trademark priority is established in accordance with Article 7 of this Law";

the second paragraph is amended by striking: "accepted" and inserting: "made";

forth and seventh paragraphs are amended by striking: "6 months" and inserting: "12 months";  
parts 2-8 are regarded as parts 3-9 relatively.

11. Paragraph 5 of Article 11 is amended by striking: "third" and "forth articles" and inserting: "second" and "paragraph 5 of the Article 10".

12. Paragraph 1 of the Article 12 is amended by striking: "The Trademarks State Register of the Kyrgyz Republic (onwards — Register)" and inserting: "Register".

13. Article 15:

the Article title to read as follows: "The Effective Term of a Trademark";  
the first paragraph is amended as follows:

"The trademark registration shall be valid for ten years from the date of submission of the application to Kyrgyzpatent";

second and third paragraphs are amended by adding after the word "term" the word "registration".

14. Article 16:

the first paragraph is amended by striking: "about introduced changes" and inserting: "about the changes to be made";

by adding at the Article the forth paragraph:

"Kyrgyzpatent shall make correction of obvious and technical errors made not due to the applicant's fault to the Register and to the Certificate of a trademark, without payment of any fee".

15. Article 18 is amended by striking the second paragraph.

16. Article 19 is amended by adding the second paragraph:

"The charter of a collective mark, which contains a data concerning name, list of legal entities that possess the right to use such mark, the purpose of its registration, list and unified qualitative or other common characteristics of goods, which will be designated by collective mark as well as conditions of use of such mark, order of monitoring of its use, liability for infringement of the charter of a collective mark, shall be enclosed to the application for a collective mark";

the second paragraph is regarded as third.

17. Article 20 is amended as follows:

by adding at the Article the third paragraph:

"A trademark may be also deemed as being used if it is used as a website or link in Internet";

the forth paragraph to read as follows:

"Validity of the registration of a trademark may be terminated in full or in part before the due time on the basis of court decision issued at the request of any person in connection with non use of a trademark during for any three years from the date of registration or during three years preceding the filing of such statement";

paragraphs 3-5 are regarded as paragraphs 4-6 relatively.

18. Article 21 is amended as follows:

"Article 21. Warning Marking

The owner of a trademark may use a warning mark by the side of the trademark in the form of Roman letter R or ® or verbal designation "registered trademark" indicating that the used designation is a trademark registered in the Kyrgyz Republic".

19. Article 25 is amended as follows:

Article 25. Invalidation of the Registration of a Trademark

Registration of a trademark may be considered invalid in full or partially during the whole period of its validity if it has been conducted in violation of the requirements established in Article 4 of the present Law.

Registration of a trademark may be considered invalid in full or partially during five years from the date of publication of the information on registration of a trademark in the Official Bulletin based on the grounds established by Article 5 of this Law. This rule shall not be applied for trademarks registered or used unfairly.

Registration of a trademark may be considered invalid in full within the whole effective term if such registration is made in violation of the requirements established by paragraph 2 of Article 3 of this Law.

Any person may file an appeal with the Appellate Council against registration of a trademark within the period stated in paragraph 1 of this Article. The appeal against registration of a trademark must be examined during four months from the date of its receipt".

20. Article 26 is amended as follows:

"Article 26. Cancellation of the Registration of a Trademark

Registration of a trademark shall be cancelled by Kyrgyzpatent:

- 1) in connection with termination of the term of its validity as provided by Article 15 of this Law;
- 2) on the basis of court decision on premature termination of its validity due to the use of a collective mark on goods not possessing common qualitative or other common characteristics, according to paragraph 3 of Article 19 of this Law;
- 3) on the basis of court decision on premature termination of its validity due to the failure to use the trade mark pursuant to the paragraph 5 of Article 20 of this Law;
- 4) on the basis of Kyrgyzpatent decision on premature termination of its validity, and in case of if it is appealed in the court — on the basis of court decision, in case of liquidation of a legal entity or termination of entrepreneurship activity of a natural person — the owner of a trademark without any successor;
- 5) on the basis of the court decision in the event of transformation of a trademark into a designation that has come into a general use as designation of goods of a certain kind;
- 6) in the case of refusal by the owner of a trademark on the basis of his application submitted to Kyrgyzpatent.

The trademark that terminates its effective term in accordance with points 1, 4 and 6 of this Article cannot be registered in the name of new person during three years since the date of termination of effective term".

21. Article 29:

forth subparagraph of the paragraph 3 is amended by striking: "appearance" and inserting: "description";

the second subparagraph of the paragraph 5 is amended by adding: "(competent bodies)" after words "competent body";

by adding at the Article paragraph 6:

"The date of receipt of the documents by Kyrgyzpatent provided by paragraph 3 of this Article is considered as the date of application filing, if the said documents are submitted non-simultaneously — the date of receipt of the last of submitted documents";

paragraph 7 to read as follows:

"Requirements to above-mentioned documents of the application shall be established by Kyrgyzpatent";

paragraphs 6 and 7 are regarded as paragraphs 7 and 8 relatively.

22. Article 30:

the second paragraph is amended by striking: "two months" and inserting: "one month"; by striking: "by his own initiative";

paragraphs 5 and 6 are amended by striking: "two months" and inserting: "one month";

paragraph 7 to read as follows:

"The applicant shall be notified that the application on registration the appellation of origin is refused.

The applicant shall be notified about positive results of preliminary examination and the date of the application filing established in accordance with Article 29 of this Law and applicant shall be notified that the application is accepted for consideration";

paragraph 8 is amended by striking: "within 12 months from the date of application acceptance";

paragraph 9 to read as follows:

"Kyrgyzpatent shall make a decision on the registration of appellation of place of origin of goods and granting the right to use it, or refusal in registration of appellation of place of origin of goods and granting the right to use it, or decision on granting the right to use the already registered appellation of place of origin of goods or refusal in granting the right to use it based upon the results of examination";

parts 8-10 are regarded as parts 10-12 relatively.

23. Article 33 is amended:

by striking: "within" and inserting: "from the date of filing" in the first paragraph;

by adding: "(competent bodies)" after words "competent body" in the second paragraph.

24. Article 34 is amended by adding paragraph 3:

"Correction of obvious and technical errors made not due to the applicant's fault shall be made by Kyrgyzpatent into the Register and the certificate for the right to use the appellation of place of origin of goods without payment of any fee".

25. Article 36 is amended:

by adding at this Article the second paragraph:

"The use of appellation of place of origin of goods shall be deemed to be its use as a website or link in Internet";

the second paragraph to read as follows:

"The persons who do not have the certificate shall not be allowed to use the registered appellation of place of origin of goods, even if real place of origin of a good is indicated, or if designation is used in translation or in combination with such expressions as "kind", "type", "imitation" and so on, and also use a similar appellation for identical goods, which can mislead consumers with respect to the place of origin and special properties of the good";

paragraphs 2 and 3 are regarded as paragraphs 3 and 4 relatively.

26. The Article is amended by adding: "in the form of verbal designation "registered appellation of place of origin of goods" or "Reg. HIIMT", after words "a warning mark".

27. Article 38 is amended as follows:

"Article 38. Invalidation of the Registration of Appellation of Place of Origin of Goods and the Certificate for the Right to Use Appellation of Place of Origin of Goods

Registration of the appellation of place of origin of goods may be invalidated during the whole effective period if it has been conducted in violation of the requirements established by this Law.

The certificate for use the appellation of place of origin of goods may be invalidated if it has been issued in violation of the requirements established by this Law or in connection with cancellation of registration of the appellation of place of origin of goods.

On the grounds provided by paragraphs 1 and 2 of this Article any person may file a protest against registration of the appellation of place of origin of goods with the Appellate Council. A protest shall be considered within four months since the date of receipt. Both appealing person and owner of the certificate have a right to participate in the consideration of the protest.

Decision of the Appellate Council may be appealed in the court by the applicant within six months since the date of receipt".

28. Article 38-1 is amended by adding the following:

"Article 38-1. Determination of the Registration of Appellation of Place of Origin of Goods and the Certificate for the Right to Use Appellation of Place of Origin of Goods.

The validity of registration of appellation of place of origin of goods may be terminated:

- due to disappearance of the conditions characteristic to a particular geographic place and impossibility to manufacture the good with the properties indicated in the Register;

- due to the loss by foreign legal entities or natural persons of the right for particular appellation of place of origin of goods in the country of origin of a good. The validity of certificate for the right to use the appellation of place of origin of goods may be terminated:

- due to termination of the registration of appellation of place of origin of goods on the grounds provided by paragraph of this Article;
- due to expiration of validity provided by Article 33 of this Law;
- in case of liquidation of a legal entity or termination of entrepreneurship activity of a natural person - the owner of the certificate without any successor;
- on the basis of an application submitted by the owner of the certificate to Kyrgyzpatent.

Any person may, on the grounds set forth in paragraph 1 and indentation 4 of paragraph 2 of this Article, file a protest against the registration of the appellation of place of origin of goods and against granting of the certificate for the right to use the appellation of place of origin of goods with the Appellate Council. The protest shall be examined during four months from the date of receipt thereof.

The decision of the Appellate Council may be appealed in court by the applicant within six months as of the date of receipt thereof.

29. The first paragraph of the Article 41 is amended as follows:

"The use of a trademark or designation similar to a trademark regarding similar goods or well-known trademark or designation similar to thereof or name of appellation of place of origin of goods or designation similar to appellation of place of origin of goods regarding any goods conflicting with the present Law shall entail civil, administrative or criminal liability in accordance with the legislation of the Kyrgyz Republic".

#### **Article 3.**

The Law of the Kyrgyz Republic "On Copyright and Related Rights" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1998, N 3, art. 67) is amended:

paragraph 1 of the Article 3 is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic (onwards — Kyrgyzpatent)" and inserting: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property (onwards — Kyrgyzpatent)".

#### **Article 4.**

The Law of the Kyrgyz Republic "On Legal Protection of Computer Programs and Databases" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1998, N 4, art. 129) is amended:

paragraph 3 of the Article 2 is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic (onwards — Kyrgyzpatent)" and inserting: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property (onwards — Kyrgyzpatent)".

#### **Article 5.**

The Law of the Kyrgyz Republic "On Legal Protection of Topology of Integrated Circuits" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1998, N 8, art. 228 "a") is amended:

paragraph 2 of the Article 2 is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic (onwards — Kyrgyzpatent)" and inserting: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property (onwards — Kyrgyzpatent)".

#### **Article 6.**

The Law of the Kyrgyz Republic "On Legal Protection of Selection Achievements" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1998, N 10, art. 375) is amended:

paragraph 1 of the Article 3 is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic (onwards - Kyrgyzpatent)" and inserting: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property (onwards — Kyrgyzpatent)".

#### **Article 7.**

The Law of the Kyrgyz Republic "On Service Inventions, Utility Models and Industrial Designs" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1999, N 12, art. 542) is amended:

by striking in whole text of the Law: "preliminary patent" and "certificate";

paragraph 2 of the Article 7 is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic (onwards - Kyrgyzpatent)" and inserting: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property (onwards - Kyrgyzpatent)";

paragraph 6 of the Article 8 and in the Article 14 are amended by striking "certificate" and inserting "patent".

**Article 8.**

The Law of the Kyrgyz Republic "On firm names" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 2000, N 4, art. 183) is amended:

paragraph 1 of the Article 2 is amended by striking: "State Agency of Intellectual Property under the Government of the Kyrgyz Republic (onwards - Kyrgyzpatent)" and inserting: "The representative State body of the Kyrgyz Republic in the field of Intellectual Property (onwards - Kyrgyzpatent)".

**Article 9.**

Until bringing into line normative and legal acts of the Government of the Kyrgyz Republic, Ministries and Offices of the Kyrgyz Republic with the present Law, all existing normative and legal acts unabolished before are in force.

**Article 10.**

The present Law enters into effect since the moment of its publication.

The present Law is used for legal relations formed from the date of its coming in effect.

The Government of the Kyrgyz Republic has to bring into line with this Law all normative and legal acts.

President of the Kyrgyz Republic

A. Akaev

Adopted by the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic, January 21, 2003.

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