

LAW OF THE KYRGYZ REPUBLIC

On Patent Attorneys

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Chapter I General Provisions

Article 1. Scope of the Law

The present Law stipulates legal framework of the professional activity of patent attorneys on the territory of the Kyrgyz Republic in the area of intellectual property objects protection.

Provisions of the present Law shall be effective within the territory of the Kyrgyz Republic with respect to all patent attorneys and legal entities thereof regardless of organizational and legal forms and form of property.

Article 2. State Body on Intellectual Property Issues

To regulate the professional activity of patent attorneys an authorized state body on intellectual property issues (hereinafter referred to as Kyrgyzpatent) shall carry out qualification testing and registration of patent attorneys, for which Qualification and Appellate Committee are established.

Qualification Committee shall approve the procedure of qualification testing and questions of the test. It shall appoint examiners and take decision on access to qualification testing, on whether a person qualifies or conditionally qualifies or does not qualify to be a patent attorney, with consideration of requirements of Article 7 of the present Law.

The Appellate Committee shall process complaints of persons taking qualification testing against a decision of the Qualification Committee, as well as complaints of persons against acts of patent attorneys related to undue performance of professional duties.

Article 3. Activity of Patent Attorneys

Activities related to receipt of protective documents and legal protection of industrial property objects and breeding achievements, may be implemented through patent attorneys.

Natural persons living outside the Kyrgyz Republic or foreign economic entities, or their patent attorneys shall perform activities related to protection of industrial property objects, breeding achievements only through patent attorneys registered at Kyrgyzpatent, unless it is provided otherwise in international treaties of the Kyrgyz Republic.

Chapter II Patent Attorney

Article 4. Notion and Legal Status of Patent Attorney

Patent attorney shall be a natural person, who passed qualification testing according to the established procedure and registered in the State Register of Patent Attorneys of the Kyrgyz Republic (hereinafter referred to as the Register) in compliance with the present Law, who was granted the right to represent natural and legal entities before the Kyrgyzpatent and other organizations on issues of obtaining and implementing legal protection of objects of industrial property and breeding achievements. Activity of a patent attorney shall be an activity of a specialist, who passed qualification testing, with respect to qualified acts in the interest of natural and legal entities on protecting their right, freedoms and legal interests with regards to objects of industrial property and breeding achievements.

A patent attorney may perform his/her professional activity both independently as an individual entrepreneur or as a legal entity, and working on a contract. The patent attorney working on a contractual basis shall be obliged to submit data thereof to Kyrgyzpatent. The patent attorney shall be obliged to inform Kyrgyzpatent about all changes related to this issue within one-month term for highlighting this information in the Register and publication thereof in an official bulletin.

Patent attorneys, who have created legal entity in accordance with the legislation of the Kyrgyz Republic, shall be obliged to inform Kyrgyzpatent thereof in one-month period for highlighting this information in the Register and publication thereof in an official bulletin.

Article 5. Requirements Set Forth to Persons to Be Tested

Persons meeting the requirements below may be qualified, and registered as a patent attorney:

citizens of the Kyrgyz Republic;

residing on the territory of the Kyrgyz Republic as of the date of filing an application, and legal address for performing activity as a patent attorney;

having higher education;

having knowledge of legal and normative acts of the Kyrgyz Republic, international treaties, required for performing activity on protection of rights to objects of industrial property, breeding achievements to the extend determined by Kyrgyzpatent.

The following persons are not eligible to take qualification testing for acquiring the status of patent attorneys:

employees of Kyrgyzpatent and subordinate organizations;

officials and employees, who are prohibited to perform business activity in accordance with the legislation of the Kyrgyz Republic.

Article 6. Representation of Patent Attorneys

A patent attorney shall be authorized to represent interests of any person, who has signed contract on rendering services with him/her.

Powers of patent attorney to process cases shall be confirmed by the power of attorney, issued by the person, on whose behalf the patent attorney processes cases. Power of attorney to represent the person concerned before Kyrgyzpatent and organizations, which form the unified state patent service, shall be granted to the patent attorney by the trustee in a written form and, no notary certificate is required.

Natural persons, residing outside the territory of the Kyrgyz Republic, and foreign legal entities shall arrange the power of attorney according to the procedure established by the legislation of the country – originator of the documents. If doubts regarding authenticity of the document arise, the power of

attorney shall be legalized in the consular body of the Kyrgyz Republic upon the demand of Kyrgyzpatent, except for the cases when legalization of the power of attorney is not required by virtue of international treaties of the Kyrgyz Republic or on the basis of principle of mutual recognition.

Chapter III

The Procedure of Acquiring Rights of a Patent Attorney

Article 7. Qualification Testing

Persons meeting requirements of points 1-3 part 1 Article 5 of the present Law shall be admitted to the qualification testing.

In the course of the exam knowledge of a person subject to qualification testing of/in the area of normative and legal acts of the Kyrgyz Republic, international agreements, required for performing the activity of the patent attorney.

A person subject to qualification testing may declare about limitation of his/her activity to certain objects of industrial property, breeding achievements or other types of services. The exam shall be conducted with consideration of the given limitation. Data on the limitation thereof shall be entered into the Register and into the certificate issued to the patent attorney.

Refusal of the patent attorney from limiting its activity shall be permitted provided the patent attorney takes an additional qualification testing, conducted according to the procedure stipulated by the present Article.

In case of disagreement with decision of the Qualification Committee the person being tested shall have the right to appeal to the Appellate Committee within three-month period provided the corresponding payment is made. Upon consideration of the complaint the Appellate Committee shall have the right to remain the decision of the Appellate Committee in force, to appoint qualification testing for the second time, or to cancel decision of the Appellate Committee.

Qualification testing of nominees to patent attorneys and additional qualification testing of patent attorneys shall be carried out by Kyrgyzpatent upon receipt of applications for qualification testing provided the corresponding payment is made.

The procedure of qualification testing and registration of patent attorneys shall be determined by Kyrgyzpatent in accordance with provisions, stipulated by the present Law.

Article 8. Registration of Patent Attorneys

Persons who successfully passed the exam, shall be registered by Kyrgyzpatent into the Register on the basis of application for registration within one month as of the date of its filing and provided the corresponding payment is made.

Decision on qualification testing shall enter into force as of the date of its taking. The right to conduct professional activity of a patent attorney shall emerge as of the date of its registration in the Register. Pursuant to the present Law persons, not registered as patent attorneys, shall not have the right to use the name of "patent attorney" in his/her activity on the territory of the Kyrgyz Republic.

Patent attorneys shall be obliged to inform Kyrgyzpatent about all changes and amendments to the data referred to the registration, as well as about changes and amendments in the Charter of legal entity within one-month period. Record on changes and amendments shall be entered into the Register and into certificate of the patent attorney provided the corresponding payment is made.

Article 9. Publication of Data on Registration of Patent Attorneys

Kyrgyzpatent shall issue to the patent attorney certificate on the basis of the registration and shall publish information on registration of the patent attorney in an official bulletin published by Kyrgyzpatent. Format of the certificate and composition of the published data shall be determined by Kyrgyzpatent.

Data on all changes and amendments referred to registration, as well as on changes and amendments in the Charter of the legal entity shall be published in an official bulletin.

Article 10. Exclusion from the Register of Patent Attorneys

Kyrgyzpatent shall exclude a patent attorney from the Register on the following grounds:

- application of the patent attorney;
- termination of citizenship of the Kyrgyz Republic and legal address on the territory of the Kyrgyz Republic by a patent attorney or due to circumstances, stipulated by para 2 Article 5 of the present Law;
- identification of non-compliance of data or documents submitted by the patent attorney to Kyrgyzpatent;
- decisions of the Appellate Committee on the results of consideration of complaint of a client or any other persons against acts of the patent attorney;
- decisions of the Appellate Committee upon the results of consideration of abuse of rights and duties by the patent attorney, provided by the present Law;
- failure to perform patent attorney activities during three years;
- entering into course of the ruling of a court on prohibition to conduct patent attorney's activity or on other punishments that exclude a possibility of such an activity;
- death of the patent attorney.

In the event patent attorney is excluded from the Register on the grounds stipulated by the present Article, his/her certificate shall be terminated and subject to return to Kyrgyzpatent.

Information on exclusion of the patent attorney from the Register shall be published by Kyrgyzpatent in official editions indicating reasons for exclusion.

Exclusion from the Register may be appealed in court.

Chapter IV Rights and Duties of Patent Attorney

Article 11. Rights of Patent Attorney

The patent attorney shall have the right to represent interests of any person, who signed a commission contract with him/her or any other contract of analogous content in accordance with the legislation of the Kyrgyz Republic.

Patent attorneys may perform other types of activity not prohibited by the legislation of the Kyrgyz Republic.

Article 12 Duties of Patent Attorney

The patent attorney, representing interests of the trustee shall be obliged to act within the limits of rights granted to him/her by the trustee, if otherwise explicitly follows from the actions of the trustee.

The patent attorney shall take necessary measures to prevent violations of the trustee's rights.

The patent attorney shall have no right to accept the power of attorney if he has already represented or rendered consultations on the subject matter of the case to the persons, whose interests explicitly contradict to the interests of the person, turned to the patent attorney with the request to process the case, or if the patent attorney participated in any other way in consideration of the case concerned, and if the official, who examines the case is a relative of the patent attorney.

When receiving materials from the trustees the patent attorney shall be obliged to confirm the receipt thereof and to return original material on the case upon expiration of the agreed period of time or upon expiration of the power of attorney, and upon the request of the trustee.

The patent attorney shall be obliged to terminate his/her professional activity for the period of his/her work in a state body.

In case of termination of the patent attorney's activity, liquidation or reorganization of legal entity of patent attorneys, the patent attorney shall be obliged to notify Kyrgyzpatent and trustee thereof, and to keep materials on the case for their transfer to the successor.

In case of liquidation of a legal entity or death of the trustee, whose interests were represented by the patent attorney, he/she shall inform Kyrgyzpatent and legal successors of the trustee.

Article 13. Liability of Patent Attorney

The patent attorney shall bear property or other liability in accordance with the legislation of the Kyrgyz Republic for non-qualified performance of obligations to the contract, signed with the trustee. Complaints of any persons against unduly implementation of professional duties by the patent attorney, as well as commitments of actions in violation of requirements of normative and legal acts of the Kyrgyz Republic shall be considered by the Appellate Committee of Kyrgyzpatent.

Kyrgyzpatent may take the following measures against the patent attorney, who infringed requirements thereof:

- 1) warning;
- 2) setting qualification testing following by exclusion from the Register in case of failure at the exam;
- 3) temporarily exclusion from the Register for one year term with the right to be re-entered into the Register upon the results of qualification testing;
- 4) exclusion from the Register with no right to qualification testing during five years.

Article 14. Confidentiality of Information in the Work of a Patent Attorney

The information that the patent attorney received from the trustee due to implementation of the trustee's assignment shall be considered confidential, unless it is otherwise indicated by the trustee or explicitly follows from his/her actions.

The patent attorney shall be obliged to ensure safety of documents received and (or) arranged during the patent attorney's activity. The patent attorney shall have no right to transfer these documents or copies thereof by to third persons or to disclose data therein orally without written consent of the person, whose interests he/she represents.

Chapter V Final Provisions

Article 15. Payment for Services Rendered by Kyrgyzpatent

The corresponding fee shall be charged for qualification testing, registration, issuance of certificates, consideration of appeals, additional qualification testing, and introduction of changes and amendments to the Register.

The amount and terms of making the corresponding payment, as well as grounds for exemption from payment, reduction of its amount or reimbursement shall be determined by the Government of the Kyrgyz Republic. The amount of indicated payments shall be established in compliance with the Law of the Kyrgyz Republic On Licensing from the corresponding costs of Kyrgyzpatent for conduction of qualification testing, registration and introduction of changes and additions to the Register.

All funds transferred to the account of Kyrgyzpatent in the form of the corresponding payments, including hard currency ones, shall be used by Kyrgyzpatent for technical equipping, creation and application of computerized system of compiling fund of patent documentation, training and stimulating of the personnel.

Article 16. The Procedure of Entering into Force of the Present Law

The present Law shall enter into force as of the date of its publication (“Erkin-Too” newspaper of February 28, 2001, # 17).

The Government of the Kyrgyz Republic shall bring its normative and legal acts in compliance with the present Law.

To bring the legislation of the Kyrgyz Republic in compliance with the present Law normative and legal acts of the Kyrgyz Republic with regard to the part not contradicting the present Law, shall be applied.

Results of qualification testing and registration of patent attorneys made on the basis thereof, conducted not earlier than three years as of the effective date of the present Law, shall be considered to be valid.

President of the Kyrgyz Republic

A.Akaev

Adopted by the Legislative Assembly Jogorku Kenesh of the Kyrgyz Republic

January 22, 2001
