

The Law of the Republic of Kazakhstan dated 26 July, 1999 No. 456, on trademarks, service marks and appellations of origin

This Law regulates the relations, arising in connection with the registration, legal protection and use of trademarks, service marks and appellations of origin in the Republic of Kazakhstan.

Chapter 1. General Provisions

Article 1. Basic definitions used in this Law

The following basic definitions shall be used in this Law:

- 1) an exclusive right is the property right of the owner to use a trademark or appellation of origin in any manner at his (her) sole discretion;
- 2) a bulletin - the official periodical publication for the issues of protection of trademarks and appellations of origin;
- 3) a name of a geographic object - an indication that identifies a product, originating from a specific territory, region or locality;
- 4) a well-known trademark - a sign, used as a trademark or a trademark, which is recognized as well-known by virtue of the international agreements, the participant of which is the Republic of Kazakhstan, by the decision of the competent body or a court, based on the evidence of the interested parties;
 - 4-1) the Madrid agreement - the Madrid agreement, concerning the international registration of marks, dated April 14, 1891;
- 5) an applicant - a legal entity or an individual, who submits an application for trademark registration or the registration and the right to use the appellations of origin;
- 6) patent agents - the citizens of the Republic of Kazakhstan, who have the right to represent the individuals and legal entities to the competent body and the expert organization in accordance with the legislation of the Republic of Kazakhstan;
- 7) the International classification of goods and services - the classification, adopted by the Nice agreement, dated June 15, 1957 with the subsequent amendments and supplements;
- 8) a trademark, a service mark (hereinafter - the trademark) - the indication, registered in accordance with this Law or protected without the registration under the international treaties, the participant of which is the Republic of Kazakhstan, which serves to distinguish the goods (services) of one legal entities or individuals from similar goods (services) of other legal entities or individuals;
- 9) the use of a trademark or an appellation of origin - the use of a trademark or an appellation of origin on goods and in the provision of services, in respect of which they are protected, and (or) their packaging, manufacture, use, importation, possession, offering for sale, the sale of goods with the designation of a trademark or an appellation of origin, the use in signage, advertising, printed materials or other business documents, the transfer of trademark rights, as well as any other forms putting them into operation;
- 10) an owner of the trademark or the right to use the appellation of origin - a legal entity or an individual, engaged in business activities, having the exclusive right to the trademark or the exclusive right to use the appellation of origin in accordance with this Law;
- 11) an appellation of origin - a designation, that presents or contains the name of a country, region, town, locality or other geographic area, as well as an indication,

derivative of such name and became known as a result of its use in relation to the goods, special features, quality, reputation or other characteristics of which are mainly related to its geographical origin, including distinctive natural conditions and (or) human factors;

12) a collective trademark - a trademark of the association (union) or other associations of legal entities and (or) individual entrepreneurs (hereinafter - the associations) that is used to serve to indicate the manufactured or sold goods (services) that have the common qualitative or other characteristics.

Article 2. The legislation of the Republic of Kazakhstan on trademarks, service marks and appellations of origin

1. The legislation of the Republic of Kazakhstan on trademarks, service marks and appellations of origin consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If an international treaty, ratified by the Republic of Kazakhstan, establishes the rules other than those contained in this Law, the rules of the international treaty shall be applied.

Article 3. The authorized state body in the sphere of protection of trademarks, service marks, appellations of origin

1. The authorized state body (hereinafter - the authorized body) is the state body, determined by the Government of the Republic of Kazakhstan and exercising the state regulation in the field of protection of trademarks, service marks, appellations of origin.

2. The competence of the authorized body is:

1) the participation in the implementation of the state policy in the field of legal protection of trademarks, service marks, appellations of origin;

2) the issuance of documents of title to trademarks, service marks, appellations of origin;

2-1) the determination of the order for recognition of the trademark as well-known;

2-2) the determination of the order for registration of the appellation of origin of goods and (or) granting of the right to use the appellation of origin;

2-3) the approval of the application form for registration of the agreement on the transfer of trademark rights;

2-4) the approval of the application form for registration of a license agreement or a sub-license agreement for the use of the trademark;

3) the control of the activities of individuals and legal entities, using the trademarks, appellations of origin, service marks;

4) the preparation of reports and review of administrative cases, the imposition of administrative penalties;

5) the exercise of other powers, stipulated by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Article 3-1. The state monopoly in the field of protection of the trademarks, service marks, appellations of origin

1. The activity on receipt and review of the applications for registration of the trademarks, service marks and appellations of origin, the examination of contracts for the transfer of rights to trademarks, service marks, license (sub-licensing) agreements, maintain the state registers of the protected trademarks, service marks and appellations origin, preparation of licensing, including the receipt of an application for registration of a collective mark; formal examination, amendments and corrections to the application materials; the selection of a trademark application in classes at the initiative of the applicant; the conversion of a trademark application in the collective mark and conversely, the receiving of the international application under the Madrid agreement; the preparation of the list of goods and services in accordance with the international classification of goods and services; shipment, the processing of an application to amend the international application, the examination of the application additionally for each class exceeding three; the urgent and accelerated implementation of the full examination no earlier than six months from the date of the start of the full examination; the consideration of objections to the decision on the provisional refusal of registration, the extension of the deadline for objections to the decision of examination for each month; the extension of the request response for each month; the recovery of the missed term to the response, the payment, the objection of the applicant; the issuance of duplicate certificates, applications, and publication of information for issuance; the amendment to the state registers of the protected trademarks, service marks and appellations of origin of goods in the trademark certificate and the right to use the appellation of origin; the extension of the certificate term for the right to use the appellation of origin, the certificate of trademark and additionally for each class exceeding three; the publication of information on the extension; the examination of a pledge agreement, the agreement on the provision of the integrated business license, the agreement on assignment of the right to receive the certificate of trademark for one or a group of objects of industrial property; the expertise of additional agreements and publication of data on registration of contracts; the issuance of extracts from the state register, certificates; the conducting of preliminary research of the notation in the database of trademarks and the designations, declared to the registration in respect of the specified classes of goods and services with the submission of the report on search; the implementation and publication of the printed and electronic publications shall refer to the state monopoly and be carried out by the expert organization, created by the Government of the Republic of Kazakhstan in the legal form of the republican state enterprise on the right of business.

2. The activities, technologically related to the activities of the expert organization include:

- 1) the certification of copies of the application (the priority document);
- 2) the offsetting and confirmation of payments.

3. Prices of goods (works, services), produced and (or) sold by the subject of the state monopoly shall be established by the Government of the Republic of Kazakhstan.

Chapter 2. Legal protection and conditions for registration of trademark

Section 4. Legal Protection of trademarks

1. The legal protection of trademarks in the Republic of Kazakhstan shall be granted on the basis of their registration in the manner prescribed by this Law, and without registration by virtue of the international treaties of the Republic of Kazakhstan.

2. The legal protection of trademarks may be provided to any legal entities or individuals, engaged in entrepreneurial activity.

3. The right to a trademark shall be certified by testimonial certificate.

4. The owner of a trademark has the exclusive right to use and dispose of his (her) own trademark in respect of goods and services specified in the certificate. No one can use the protected trademark without the consent of the owner in the Republic of Kazakhstan.

Article 5. The designations, registered as a trademark

1. The visual, verbal, textual, digital, three-dimensional and other designations or their combinations, distinguishing the goods and services of one person from the similar goods or services of others may be registered as a trade mark.

2. The trademark may be registered in any color or combination of colors.

Article 6. Absolute grounds, excluding the registration of a trademark

1. The registration of trademarks, consisting exclusively of designations that cannot be distinguished, shall not be allowed, which are:

- 1) in universal use for designation of goods of a particular kind;
- 2) generally accepted symbols and terms;
- 3) indicating to the kind, quality, quantity, properties, function, value of goods, as well as the place and time of their manufacture or sale;
- 4) excluded
- 5) excluded
- 6) having a straight narrative, and (or) an associative link with the goods or services for designation of which they are used;
- 7)-13) are excluded

These designations may be used as unprotected elements of a trademark, if they do not occupy a dominant position therein.

2. The designations, reproducing the national state emblems, flags and emblems, abbreviations and full names of international organizations and their coats of arms, flags and emblems, official control, warranty or hall marks, stamps, Olympic symbols, awards and other distinctions, and the designations that are similar to them to the point of confusion shall not be registered as trademarks.

Such designations may be used as unprotected elements, if the designation does not consist of only one of them and if there is consent of the competent body or the owner on their use.

3. The designations that are:

- 1) false or liable to mislead about the good or its manufacturer, including the names of geographical units that can be misleading as to the place of production of goods;
- 2) formally indicating to the true place of production, but give a wrong impression that the good comes from another territory;
- 3) representing or containing the names of geographical units, identifying mineral water, wine or spirits, to refer to such goods not originating from this place, and if the translation is used, or the designation is accompanied by expressions such as "kind", "type", "style" or similar;
- 4) contrary to the public interest and the principles of humanity and morality shall not be allowed to register as trademarks and their elements.

Article 7. Other grounds for refusal of registration of a trademark

1. The designations shall not be the subject to registration as trademarks, that are identical or similar to the point of confusion:

- 1) with the trademarks, registered in the Republic of Kazakhstan earlier in the name of other person in relation to the similar goods and services;
- 2) with the trademarks, recognized in the prescribed manner as well known in the Republic of Kazakhstan in relation to any kind of goods and services;
- 3) with the designations, filed for registration in a more earlier priority in the name of another person in relation to the similar goods and services (other than recalled);
- 4) excluded
- 5) with the appellations of origin, protected in the Republic of Kazakhstan in respect of any goods, unless they can be included as unprotected elements in a trademark, registered in the name of the owner of the rights of use of this appellation, if trademark registration is carried out to respect of the same goods, for individualization of which the appellation of origin is registered.

2. The designations, that reproduce:

- 1) the industrial designs, protected in the Republic of Kazakhstan, in the name of other persons subjected to their earlier priority;
- 2) excluded
- 3) the names of well-known works of literature, science and art, famous works of art, and their fragments, in violation of copyright in the Republic of Kazakhstan as of the date of filing;
- 4) the surnames, first names, pseudonyms, and portraits and facsimiles derivatives thereof, in violation of the moral rights of these persons, their heirs or assigns, and if these marks are the property of history and culture of the Republic of Kazakhstan - without the permission of the competent body, shall not be registered as trademarks.

Article 8. Filing of application

1. The trademark application shall be submitted by one or more applicants to the expert organization.

2. The application for a collective trademark shall be filed on behalf of the association in accordance with the agreement of its participants on the use of the collective trademark.

3. The application may be filed in the form of an electronic document, certified by the digital signature.

Article 9. The requirements for a trademark application

1. The application must be related to one trademark.

2. The application must be submitted on a standard form and contain:

- 1) the request for examination of a designation, indicating the applicant (s) and his (their) location or residence;
- 2) the designation;
- 3) the list of goods and (or) services in accordance with the International classification of goods and services.

3. The application shall be accompanied by:

- 1) the proof of payment for services of an expert organization for the examination. The amount of payment shall be determined in accordance with the

legislation of the Republic of Kazakhstan;

2) the power of attorney if the application is filed through a representative;

3) the statute of the collective trademark (in the case of an application for a collective trademark), including the name of the organization, authorized to register the collective trademark on its name, the purpose of registration of the mark, the list of entities eligible to use this mark, the list and uniform qualities or other characteristics of the goods and services that will be designated by the collective trademark, the conditions of its use, the procedure for monitoring its use, the responsibility for the violation of the provisions of the statute of the collective trademark.

4. The application and accompanying documentation shall be submitted in the state or Russian language. If the documents are submitted in another language, the applicant shall submit their translation into the state or Russian language within two months.

5. The date of filing of the application shall be the date of receiving the application to the expert organization that meets the requirements of paragraph 2 of this Article, if such documents are not submitted simultaneously, - on the date of receipt of the last submitted documents.

6. The procedure for compiling, processing and review of the application for the trademark shall be established by the authorized body.

Article 10. The priority of a trademark

1. The priority of a trademark shall be determined by the date of filing of the application to the expert organization.

2. The priority of a trademark may be determined on the date of filing of the first (first) application (s) for the trademark in a member state to the Paris convention for the protection of industrial property, as well as in the international or regional organization (convention priority) provided by it, if filling the application to the expert organization is completed within six months from that date. While claiming the convention priority, the applicant must specify the number of the first application, the date and country of filing and attach a certified copy of the first application.

3. The priority of the trademark, placed on the exhibits of the officially recognized international exhibitions may be determined by the date of the open display of the exhibit at the exhibition (exhibition priority), if filling the application for the trademark to the expert organization is made within six months from that date.

4. The applicant wishing to take the advantage of the right of convention or exhibition priority must indicate this and provide the relevant documents, proving the legitimacy of such a claim when filing the trademark application or within two months from the date of receipt of the application to the expert organization.

5. In case of separation of the application, the priority for each of such applications shall be determined by the priority date of the first application.

The priority for the separated applications shall be determined by the priority date of the initial application of the same applicant, and if there is the right to the earlier priority of the initial application, when on the date of filing the separated application the initial application is not withdrawn and not deemed as withdrawn and the separated application has been submitted before making a decision on the initial application - by the date of this priority.

6. The multiple priority of the trademark in relation to the different goods may be installed at the request of the applicant in the presence of several of his (her) applications for the designation in respect of various goods.

Chapter 3. Examination of a trademark

Article 11. Examination procedure

1. Examination of the application shall be carried out by the expert organization in a phased manner of:

1) a preliminary examination - within one month from the date of receipt of the application, in order to verify the contents of the application, the availability of the required documents in accordance with the requirements, set forth in Articles 5 and 9 of this Law;

2) a full examination - within nine months from the date of filing of the application, in order to verify the compliance of the claimed designation with the requirements, set forth in Articles 6 and 7 of this Law.

2. At any stage of examination, the expert organization has the right to request the additional materials that should be submitted within three months from the date of the request to the applicant.

In case of failure to submit the additional materials or the request on the extension of the deadline by the applicant within the set term, the paperwork shall be ceased and the application shall be deemed as withdrawn.

Article 12. Decisions by results of the examination

1. According to the results of the preliminary examination, the applicant shall be informed about the acceptance of the application for consideration, assigning the appropriate number to it, the filing date and the priority date, or on the refusal to accept the application for consideration in the form of a reasoned opinion.

2. The applicant may, within three months from the date of sending a preliminary conclusion of the full examination to him, present a reasoned objection, on the consideration results of which the expert organization shall render a final conclusion within three months from the date of receipt of the objection.

3. According to the results of a full examination, the authorized body shall register the trademark or refuse to registration within fifteen working days. The decision to register may apply to the entire list of goods and services, or to parts of them.

4. The decision to register a trademark before its inclusion in the state register of trademarks may be reviewed in connection with the identification of the application with an earlier priority.

5. Based on the decision of the authorized body on the registration of a trademark, the applicant, within three months from the date of receipt of the notification on the positive conclusion from the expert organization, shall pay the state fee for the issuance of a trademark, as well as the payment of actions of the expert organization for the preparation of documents for the issuance of the trademark.

In case of failure to submit the documents on the payment of the state fee for issuing of the certificate to the trademark and the payment for the actions of the expert organization for the preparation of documents for the issuing of the certificate of trademark by the applicant in the established procedure, the registration of the trademark shall not be carried out, and the corresponding trademark application shall be deemed as withdrawn and the paperwork on it shall be ceased.

6. In case of disagreement with the conclusion of the examination, made in accordance with paragraph 2 of this Article, the applicant may file an objection on conclusion of the examination to the authorized body within three months from the date

of its direction. The objection shall be considered by the appeals board within four months from the date of its receipt.

Article 13. The applicant's rights

The applicant has the right to:

- 1) withdraw the application at any stage of the examination;
- 2) participate in the consideration of issues, arising in the course of the examination of the application;
- 3) supplement, specify or amend the application materials without changing on its merits before the completion of a full examination;
- 3-1) submit a request for the separation of the application at any stage of its consideration before the end of the examination with the distribution of goods and services, listed in the initial application, between the separated applications;
- 4) apply for an extension of the deadlines for providing a response or a request an objection, but no more than up to six months;
- 5) apply for restoration of the missed time limit, but no later than two months from the date of expiry of the missed time limit;
- 6) get acquainted with the competing materials.

Chapter 4. Registration of a trademark

Article 14. State register of trademarks

1. excluded
2. At the moment of issuance of the trademark certificate by the expert organization the following shall be included in the State register of trademarks:
 - 1) the image of the trademark;
 - 2) the information about its owners;
 - 3) the number and date of registration of the trademark;
 - 4) the list of goods and services in respect of which the trademark is registered;
 - 5) the number and date of filing of the application to the expert organization;
 - 6) the country, number and date of filing of the first application, if the convention priority is set;
 - 7) other information relating to the registration of the trademark, including the information on the transfer of rights to the protected trademark.
3. The State register of trademarks is publicly available. Upon the application of the interested persons, the expert organization provides an extract from the State register of trademarks.
4. The trademark owner must notify the expert organization on changes concerning the registration, including the information about changing his (her) last name, first name and middle name if desired, and the place of residence or the name and location.
5. The expert organization shall enter the changes, specified in paragraph 4 of this Article, as well as the changes, to correct the technical errors in the State register, and the authorized body in the trademark certificate.

Article 15. The validity of registration

1. The registration of a trademark is valid for ten years from the date of filing.
2. The validity of registration of a trademark can be renewed each time for ten years at the request of the owner, filed during the last year of its validity. The

information, concerning the renewal of the registration shall be entered in the State register of trademarks and the certificate.

3. The deadline for filing the application, specified in paragraph 2 of this Article may be restored upon the application of the owner, filed within six months after the expiry of the registration period.

Article 16. Publication of particulars of registration

The information, relating to the registration of a trademark, registered in the state register of trademarks, as well as the subsequent changes, regarding the registration shall be published in the bulletin of the expert organization immediately after their entry in the state register of trademarks.

The details of the owners of the collective mark shall be added to the state register and the collective mark certificate.

Article 17. The conditions for re-registration of the trademark

The trademark, the registration validity period of which has expired, cannot be re-registered in the name of a person, other than the previous owner, within one year from the date of termination of the registration.

The above condition shall be applied also in the case when the trademark owner abandoned it before the expiry of the registration.

Article 18. Certificate of trademark

1. excluded

2. The trademark certificate confirms the registration of a trademark, its priority, the owner's exclusive right to the trademark in respect of goods and services specified in the certificate.

3. The form of the certificate is established by the authorized body.

Article 18-1. The recognition of the trademark as well-known

1. The trademark, registered in the territory of the Republic of Kazakhstan or protected under the international treaties, as well as the designation used as a trademark without the legal protection in the Republic of Kazakhstan, but which has acquired the wide recognition as a result of the active use in the Republic of Kazakhstan may be considered as a well-known trademark in the Republic of Kazakhstan.

An application of individuals or legal entities for the recognition of the trademark as well-known in the Republic of Kazakhstan shall be considered by a commission of the authorized body for the recognition of the trademark as well known.

The provision of the commission for the recognition of the trademark (service mark) as well known in the Republic of Kazakhstan shall be approved by the authorized body.

According to the results of consideration of the application by the commission of the authorized body, the decision on the recognition of the trademark as well-known or the decision to refuse such recognition, which shall be sent to the owner of the trademark within ten working days from the date of the decision is made.

If the factual information submitted by the applicant confirms the date when the mark became well known other than that specified in the application, the trademark can be recognized as well known from the effective date.

The decision to refuse the recognition of the trademark as well-known shall be made, if it is established that:

the information, submitted by the applicant, does not confirm the common knowledge or insufficient for the recognition of the trademark as well-known;

there is a trademark which is identical or confusingly similar to the trademark of the applicant, protected or declared in the name of any other person in respect of similar goods, with a priority earlier than the date from which the applicant appeals to recognize his (her) trademark as well known.

The decision of the commission of the authorized body, specified in part four of this paragraph, may be appealed in a court.

2. The well-known trademark shall be granted the legal protection, provided by this Law for a trademark.

3. The legal protection of well-known trademarks shall be ceased:

1) due to the expiration of the registration period;

2) due to the entry into force of the court decision on refusal of the decision of the commission of the authorized body on the recognition of a trademark as well known.

4. On the basis of the recognition, specified in paragraph 1 of this article, the designation or trademark as well known, the certificate, valid for ten years from the date of the recognition of the trademark as well-known is granted to its owner.

The certificate validity period at the request of the owner and in the presentation of information, confirming the well-known trademark, can be renewed for the following ten-year period.

The information about the registration of a well-known trademark, the owner and the subsequent changes, regarding to such registration shall be entered in the state register of well-known trademarks and published in the bulletin.

Chapter 5. Use of the trademark

Article 19. The conditions for use of the trademark

1. The trademark owner must use the trademark.

2. The entrepreneurs, engaged in brokering activities may, subject to the manufacturer's consent, use his (her) mark on the goods sold by them along with the trademark of the manufacturer of the goods, as well as put it in place of the trademark of the manufacturer.

3. The owners of the collective trademark can along with the collective trademark use their trademarks on the goods, produced by them.

4. Any interested person may submit the objection to the authorized body against the registration of the trademark in connection with its non-use on the continuous period of three years from the date of the registration or three years preceding the filing of the objection. The objection may relate to the all or the part of the goods, specified in the certificate and should be considered by the appeal board within six months from the date of its receipt.

The evidence of the use of a trademark is its application to the goods for which it is registered, and on (or) their packaging by the trademark owner or the person to whom such right is granted on the basis of an agreement to transfer the rights to the trademark in accordance with paragraph 2 of Article 21 of this Law. The use, manufacture, importation, possession, offering for sale, selling of goods with the trademark, use it in the advertising, signs, printed publications, on the official forms, other business documentation, the transfer of rights to the trademark or the display of goods on the exhibitions held in the Republic of Kazakhstan, and otherwise

introducing them into civil circulation may be recognized as the use of the trademark.

The evidence of the use of a trademark, provided by its owner shall be referred to the period of time, indicated in the objection.

The evidence, provided by the owner that the trademark has not been used due to circumstances beyond his (her) control is taken into account in deciding to terminate the registration of the trademark in connection with its non-use.

5. excluded

6. The owners of the trademarks that are identical or confusingly similar to the well-known trademark and registered prior to the recognition of the trademark as well-known may retain the right to their subsequent use for a period, established by the authorized body, but no more than seven years.

7. The use of the trademark by others in relation to goods, which have been put into civil circulation in the territory of the Republic of Kazakhstan by the rightholder or with his (her) consent, shall not be considered as the infringement of the exclusive right to the trademark.

Article 20. The warning marking

The owner of the trademark certificate can make the warning marking close to the trademark in the form of a capital letter R, or verbal designations "tauar tanbasy", "trademark" or "the registered trademark", indicating that the used designation is registered in the Republic of Kazakhstan as a trademark.

Article 21. Assignment of trademark

1. The exclusive right to the trademark in respect of all goods and services indicated in the certificate or parts of them may be assigned by the owner to another person under a contract.

The assignment of trademark shall not be permitted, if it can be the cause of confusion about the good or its manufacturer.

The assignment of trademark, including the assignment under the contract or by way of the succession, must be registered in the authorized body.

2. The assignment of trademark can be granted by the trademark owner (licensor) to another person (the licensee) in relation to all the goods and services, specified in the certificate or a part of them under the license agreement.

The license agreement that permits the licensee to use the trademark shall contain the condition that the quality of goods or services would not be below the quality of goods and services of the licensor and that the licensor has the right to monitor the compliance with this condition.

Upon termination of the trademark rights the validity of the license agreement is terminated.

The assignment of trademark to another person shall not entail the termination of the license agreement.

3. The agreement on the assignment of trademark or the license agreement must be concluded in writing and registered in the authorized body. Failure to comply with the written form and the registration requirements shall entail the invalidity of the contract.

The registration of the contract on the assignment of trademark or the license agreement shall be made according to the results of the examination of materials, carried out by the expert organization.

The provisions on the registration of license agreements shall be applied to the order of registration of sub-license contracts, unless otherwise provided by the legislation of the Republic of Kazakhstan.

The application in the specified form shall be submitted to the expert organization for the registration of the contract on the assignment of trademark and the license agreement.

The application shall be accompanied by:

1) the original copies of the contract in quadruplicate, equipped with a cover sheet. Each copy of the contract shall be binded, fastened by a paper seal, where the records of the number of bound and numbered sheets, the seal impression and the signature of both parties or the unauthorized persons of both parties shall be present.

The materials for registration of the license agreements must be presented no later than six months from the date of signing of the contract.

The notarized copies of the contract may be submitted instead of the original copies of the contract;

2) the power of attorney in case of the application through a patent attorney or other representative;

3) the proof of payment for the state fee.

The national applicants for the license agreements, except for the above-mentioned documents, shall present the decision of the administrative bodies of the licensor (sub-licensor) on the conclusion of the agreement and the grant of authority to sign the contract by the head of the enterprise, in the case of the application on behalf of the legal entity.

The national applicants for the assignment agreements, except for the above-mentioned documents, shall present the decision of the administrative bodies of the owner of the protection document or the exclusive rights, the general meeting of founders or shareholders on the conclusion of the agreement and the grant of authority to sign the contract by the head of the enterprise.

The application and other required documents are presented in the Kazakh and Russian languages. Foreign names and names of the legal entities must be indicated in Kazakh and Russian transliteration. If the documents are submitted in another language, the application shall be accompanied by the notarized translation into Kazakh and Russian languages.

The application shall relate to a single contract for the assignment of trademark and the license agreement.

The individuals, living outside the Republic of Kazakhstan or foreign legal entities, submitting the contract materials to the authorized body on his (her) own behalf, shall exercise the rights, relating to the registration of contracts through the registered patent attorneys of the Republic of Kazakhstan.

The citizens of the Republic of Kazakhstan, temporarily residing abroad, shall exercise the rights, relating to the registration of contracts without a patent attorney, when indicating the address for service within the territory of the Republic of Kazakhstan.

4. The expert organization, after submission of the list of documents by the applicant for the registration, within fifteen working days from the date of receipt of the application, shall provide a preliminary examination of the received documents, in order to verify the availability of the required documents and compliance with the requirements set for them; if there is no the document confirming the payment for the examination in the attached to the application contract materials, the applicant will be billed for payment. In this case, these periods shall run from the date of receipt of payment for the expert organization.

The substantive examination shall be provided within twenty days according to the accepted materials of the contract on the assignment of trademark or the license agreement for consideration, in the course of which the study of the contract materials on the assignment of trademark and the license agreement is carried out in accordance with the current legislation of the Republic of Kazakhstan.

5. The grounds, preventing the registration of the contract on the assignment of trademark and the license agreement, which can be eliminated:

- 1) the termination of the certificate, in respect of which the contract is concluded, but there is the possibility of recovery;
- 2) the presence of the adopted obligations under the previously signed contracts that prevent to the submission of licenses for the use of industrial property;
- 3) the presence of the provisions in the contract, which are contrary to the civil legislation of the Republic of Kazakhstan and the ratified international treaties;
- 4) the presentation of the incomplete set of documents or the provided documents do not meet the requirements of the current legislation of the Republic of Kazakhstan.

6. In case of violation of the requirements for registration of the documents or the presence of the grounds, specified in paragraph 5 of this Article, preventing the registration of the contract, but that can be eliminated, the expert organization shall send a request to the applicant with a proposal to submit the missing or corrected documents or make the necessary changes and additions within three months from the date of dispatch. In this case, the terms for the substantive examination, specified in paragraph 4 of this Article shall be calculated from the date of submission of the missing or corrected documents.

7. The expert organization makes the decision to refuse the registration of the contract on the assignment of trademark or the license agreement in the presence of the following grounds:

- 1) the termination of the validity of the protection documents, in respect of which the contract is concluded and there is no possibility of recovery;
- 2) the failure to provide, within three months all the necessary materials and the information, required by paragraph 6 of this Article;
- 3) the lack of the necessary rights of the parties to conclude the contract;
- 4) the lack of authority of the licensee in the license agreement for the registration of the sublicense agreement and the absence of the license agreement that is registered in the authorized body.

The expert organization sends this conclusion to the authorized body with indication of the reasons for refusal within two working days after the conclusion.

8. If a positive result of the examination, the expert organization sends the conclusion on the absence of the grounds, preventing the registration of the contract on the assignment of trademark or the license agreement to the authorized body within five working days.

The decision on registration or refusal of registration of the contract on the assignment of trademark or the license agreement shall be adopted by the authorized body within five working days from receipt of the conclusion of the expert organization.

9. After the decision on registration of the agreement, the authorized body:

- 1) prepares the annex to the protected document to an industrial property in respect of which the contract is concluded;
- 2) stamps on the title page of the contract on its registration with the date of registration and its registration number;
- 3) makes the information about the contract in the register of the registered contracts;
- 4) submits two copies of the registered contract and the annex to the protected

document at the address for correspondence, specified in the application;

5) sends the control copy of the contract with the conclusion in the expert organization to publish the information on the registration of the contract.

The third and fourth copies of the contract shall be kept in the authorized body and the expert organizations, respectively, and shall be recognized as the control copies.

The expert organization on the registered contracts publishes the information on the registered contracts, in particular the number and date of registration of the contract, the name and full details of the parties of the contract, the subject of the contract, the term of the contract, the contract territory in the bulletin.

Any person may obtain an extract from the register of the registered contracts, which is open to the publication.

Introduction of third parties with the text of the contract, as well as obtaining an extract from it shall be allowed only with the written consent of the parties of the contract.

In the case of issuance of the decision to refuse the registration of the contract on the assignment of trademark and the license agreement by the authorized body, based on the conclusion of the expert organization, the documents of the considered contract, together with the decision to refuse the registration are returned to the address specified in the statement.

10. The contract on the assignment of trademark and the license agreement shall enter into force on the date of their registration with the authorized body.

Article 22. The assignment of trademark in the reorganization of a legal entity in the form separation

In case of the separation of the legal entity, the right to the trademark shall be transferred to the newly established legal entity, for which the production of goods or services is transferred.

In the case if each newly established legal entity saves the part of the production of goods or services for which the trademark is registered, the new legal entities are recognized as the trademark co-owners with their consent.

Chapter 6. Termination of registration of the trademark

Article 23. Challenge of the registration of the trademark

1. Registration of the trademark may be contested and invalidated in whole or in part during the term of validity, if it was made in violation of the requirements laid down in Articles 6 and 7, with the exception of subparagraphs 1) - 3) of paragraph 1 of Article 7 of this Law, or within five years from the date of registration of the trademark if it was carried out in violation of the requirements set out in subparagraphs 1) - 3) of paragraph 1 of Article 7 of this Law.

2. Any interested person may, on the grounds specified in paragraph 1 of this Article, apply the objection to the authorized body against the registration of the trademark.

The objection against the registration of the trademark shall be considered by the appeal board within six months from the date of its receipt. The person, submitting the objection and the owner of the trademark has the right to participate in the consideration of the dispute.

Article 24. The termination of the registration of a trademark and its recognition as of being void

1. The registration of a trademark shall be terminated:

- 1) due to the expiry of its validity, under Article 15 of this Law;
- 2) due to the liquidation of the legal entity or the cessation of the entrepreneurial activity of the individual - the owner of the trademark;
- 3) on the basis of a written statement of the owner of the trademark on the refusal of it;
- 4) in the case of non-use of the trademark in accordance with paragraph 4 of Article 19 of this Law;
- 5) excluded

2. The registration of a trademark shall be recognized as invalid in whole or in part by the decision of the appeal board or the court on the grounds, specified in paragraph 1 of Article 23 of this Law.

3. The expert organization makes the record to the State register of trademarks on the cancellation of registration of a trademark in connection with the termination of its validity or invalidation.

Chapter 7. Legal protection and conditions for registration of an appellation of origin

Article 25. Legal protection of appellations of origin

1. Legal protection of appellations of origin in the Republic of Kazakhstan shall be granted on the basis of their registration in the manner prescribed by this Law, as well as by virtue of the international treaties of the Republic of Kazakhstan.

2. The exclusive right to use the appellation of origin may be granted to one or more legal entities or individuals, carrying out the entrepreneurial activities, producing the goods in this geographical area, the special properties of which are exclusively or mainly related to the geographical environment, including the natural conditions and (or) human factors.

3. The state registration of geographical name as appellation of origin, which locates in a foreign country, shall be allowed if the name of the object is protected as such name in the country of origin. The holder of the exclusive right to use the name of a designated place of origin may be only a person, whose right to use such name is protected in the country of origin.

Article 26. The designations, registered as appellations of origin

1. The contemporary or historical, formal or informal, full or abbreviated name of the country, region, town, locality or other geographic area, as well as the designation, derivative of such name, and their combination with the specific name of good can be registered as an appellation of origin.

2. The designations, although constituting or containing the geographic place name, but included in the Republic of Kazakhstan into common use as designations of goods of a certain kind, not related to the place of its production are not recognized as an appellation of origin.

Article 27. The designations, not registered as appellations of origin

The designations:

- 1) representing the names of geographical units that can be misleading as to the place of production of goods;
- 2) formally indicating to the true place of production, but give the mistaken impression that the good comes from another territory;
- 3) containing the names of geographical units that are not related to the place of production of the goods, - shall not be registered as appellations of origin.

Article 28. Applying for the appellation of origin and granting the right to use the appellation of origin

The application for the appellation of origin and granting the right to use the appellation of origin (hereinafter - application) shall be submitted to the expert organization.

Article 29. The requirements for the application

1. The application shall relate to one appellation of origin.
2. The application must be submitted on a standard form and shall contain:
 - 1) the request for an examination of the name and (or) granting of the right to the name, indicating the applicant (s) and his (their) location or residence;
 - 2) the designation;
 - 3) the type of product;
 - 4) the description of the special characteristics of the goods;
 - 5) the indication of the place of production of goods (boundaries of the geographical object).
3. If a geographic area, the name of which is claimed as an appellation of origin, shall be in the territory of the Republic of Kazakhstan, the application shall include the conclusion of the local executive body that the applicant produces the good within the boundaries of the geographical area, the special features, quality, reputation or other characteristics of which are mainly determined by the natural conditions and (or) human factors of the geographic area.

The application for representation of the exclusive rights to the previously registered appellation of origin, located in the territory of the Republic of Kazakhstan, is attached the conclusion of the authorized body on the fact that the applicant produces a good with the specific properties, indicated in the state register of appellations of origin of the Republic Kazakhstan within the boundaries of the geographical area.

If a geographic area, the name of which is claimed as an appellation of origin is outside of the Republic of Kazakhstan, the application shall be accompanied by proof of the applicant's right to the claimed appellation of origin.

The application shall also be accompanied by proof of payment for services of the expert organization for the examination. The amount of payment is determined in accordance with the legislation of the Republic of Kazakhstan.

In the case of clerical correspondence through a representative, the power of attorney shall be attached to the application.

4. The application and the accompanying documentation shall be submitted in the

state or Russian language. If the documents are submitted in another language, the applicant shall submit their translation into state or Russian language within two months from the filing date.

5. Requirements to drafting, design and consideration of applications shall be established by the authorized body.

Chapter 8. Examination of an appellation of origin

Article 30. The examination procedure

1. The expert organization shall conduct an examination, within six months from the date of filing of the application, in order to verify its compliance with the requirements, established in Articles 26, 27 and 29 of this Law.

2. During the examination, the expert organization has the right to request the additional materials, which shall be submitted within three months from the date of the request to the applicant.

In case of failure to provide the additional materials or the request for the extension of the specified deadline by the applicant within the prescribed period, the proceeding of examination shall be closed and the application shall be deemed as withdrawn.

Article 31. Decisions on the examination results

1. According to the results of the examination the authorized body shall make a decision:

- 1) excluded
- 2) on the registration of the appellation of origin and (or) the granting the right to use the appellation of origin;
- 3) on the refusal to register of the appellation of origin and (or) the granting the right to use the appellation of origin.

2. The applicant may, within three months from the date of sending him (her) the decision to refuse the registration, present a reasoned objection with the request for reconsideration of the examination.

If the applicant disagrees with the decision, made by the re-examination, the applicant may file an objection in accordance with paragraph 5 of Article 12 of this Law.

Article 32. The applicant's rights

During the examination of the appellation of origin, the applicant shall be granted the rights, specified in Article 13 of this Law.

Chapter 9. Registration and granting the right to use the appellation of origin

Article 33. The rules of procedure of the State register of appellations of origin

1. At the moment of issue of a certificate for the right to use the appellation of origin, the expert organization shall record the appellation of origin, the number and date of registration, description of specific properties of the good, the information about all the owners of the right to use the appellation of origin, indicating their place of residence (location), the number and date of filing and all the subsequent changes to the above information, and the other information related to the registration into the State register of appellations of origin.

2. The owner of the right to use the appellation of origin must notify the expert organization on changes, concerning the registration information. The expert organization shall respectively amend the State register of appellations of origin and in the certificate.

3. The State register of appellations of origin is publicly available. The expert organization provides an extract from the State register of appellations of origin at the request of the interested persons.

Article 34. Validity of the registration of the appellation of origin and the right to use the appellation of origin

1. The registration of the appellation of origin shall be valid indefinitely under condition of non-changing of special characteristics of the goods, produced in the territory of the specified geographical area.

2. The right to use the appellation of origin shall be valid for ten years from the date of filing of the application to the expert organization.

3. Validity of the right to use the appellation of origin shall be renewed for ten years at the request of the owner, filed during the last year of its validity, provided that the special properties of the product, in respect of which the appellation of origin is registered, are saved.

4. An application for the extension of the right to use the appellation of origin shall be submitted together with the conclusion of the competent body in accordance with Article 29 of this Law. The information, concerning the renewal of the registration shall be entered in the State register of appellations of origin and in the certificate.

5. The deadline for the application, set out in paragraph 3 of this Article shall be recovered from the request of the owner, filed within six months after the expiry of the registration.

Article 35. Publication of the information on the registration

The information, relating to the registration of the appellation of origin and the granting the right to use the appellation of origin, as well as the subsequent changes shall be published in the bulletin of the expert organization immediately after their entry into the State register of appellations of origin.

Article 36. Certificate for the right to use the appellation of origin

1. excluded

2. The certificate confirms the registration of the appellation of origin and the

owner's exclusive right to use it in relation to the goods, specified in the certificate.

3. The form of the certificate is established by the authorized body.

Chapter 10. Use of the appellation of origin

Article 37. The conditions for use the appellation of origin

1. The owner of the right to use the appellation of origin shall have the exclusive right to use it.

2. The use without the registration of the name of geographical units, which is identical or confusingly similar to the registered appellation of origin in respect of similar good, shall not be allowed.

3. The use of the appellation of origin, representing or containing the names of geographical units, identifying the mineral water, wine or spirits, to designate such products, not originating from this place, even if it indicates a true place of origin of the goods or the translation is used or the designation is accompanied by the expressions of "kind", "type", "style", or other similar, shall be not allowed.

4. Alienation, other contracts on the assignment of the right to use the appellation of origin and granting the right to use the appellation of origin on the basis of the license agreement shall not be allowed.

Article 38. The warning marking

The owner of the right to use the appellation of origin can make the warning marking by the latin letter R, verbal designations "tauar shygarylgan zherdyn tirkelgen atauy", "the registered appellation of origin" or "reg. appellations of origin" near the appellation of origin.

Chapter 11. Termination of legal protection of the appellation of origin

Article 39. Contestation of the registration of the appellation of origin and (or) granting of the right to use the appellation of origin of goods

1. The registration of the appellation of origin and (or) the granting of the right to use the appellation of origin may be contested and annulled, if it was carried out in violation of the requirements, established in Articles 26, 27 and 29 of this Law.

2. The registration of the appellation of origin and (or) the granting of the right to use the place of origin may be contested and invalidated within five years from the date of publication of the information on the state registration of the appellation of origin in the official bulletin, if the use of the appellation of origin is able to enter the consumer for the confusion about the product or its manufacturer due to the presence of the trademark that has an earlier priority, as well as widely known in the Republic of Kazakhstan, which was acquired as a result of active use.

3. Any interested person may, on the ground, specified in paragraphs 1 and 2 of this Article, submit the objection against the registration of the appellation of origin

and (or) the granting of the right to use the appellation of origin to the authorized body.

The objection shall be considered in the manner and time, prescribed by paragraph 2 of Article 23 of this Law.

Article 40. Termination of registration of the appellation of origin and the right to use the appellation of origin, and their annulment

1. The registration of the appellation of origin shall be terminated:

1) due to the disappearance of the characteristic conditions of the geographical units and the impossibility of production of goods with the properties, specified in the State register of appellations of origin, in respect of the specified appellation of origin;

2) due to the termination of the legal protection of the appellation of origin in the country of origin.

2. The effect of the right to use the appellation of origin shall be terminated:

1) due to the expiration of its validity period, specified in Article 34 of this Law;

2) due to the loss of specific properties of the good, listed in the State register of appellations of origin in respect of the specified appellation of origin;

3) on the ground of the application of the owner of the right to use the appellation of origin, submitted to the authorized body;

4) upon the liquidation of the legal entity or the termination of the entrepreneurial activity of the individual - the owner of the right to use the appellation of origin.

3. The registration of the appellation of origin and (or) the granting of the right to use the appellation of origin shall be annulled by the decision of the appeal board or the court on the grounds, specified in paragraph 1 of Article 39 of this Law.

4. The expert organization shall make the record on the cancellation of the registration of the appellation of origin and (or) the right to use the appellation of origin at the termination of their validity or their annulment into the State register of appellations of origin.

Chapter 12. Protection of the rights of the trademark owners and the rights to use the appellations of origin

Article 41. Appeal board

1. The appeal board is a division of the authorized body on the pre-trial disputes over the objections, filed in accordance with paragraph 5 of Article 12, paragraph 4 of Article 19, paragraph 2 of Article 23, paragraph 2 of Article 39 of this Law. The regulation of the appeal board is approved by the authorized body.

2. The following objections may be filed in the appeal board:

1) on the decisions of the authorized body (the conclusion of the expert organization) for refusal to register the trademark, including the refusal to register the trademark, accepted on the results of the examination of the claimed designation, in accordance with paragraphs 1 and 2 of Article 5 of the Madrid agreement;

2) on the decision of the authorized body for refusal to register and (or) the

granting of the right to use the appellation of origin;

3) against the registration of the trademark, including in accordance with paragraph 6 of Article 5 of the Madrid agreement;

4) against the registration and (or) the granting of the right to use the appellation of origin;

5) against the registration of the trademark in connection with its non-use.

The objections specified in subparagraphs 1) and 2) of this paragraph shall be submitted by the applicant or his (her) successor, either directly or through a representative.

The objections, specified in subparagraphs 3) -5) of this paragraph shall be submitted by any interested person, either directly or through a representative.

The objection shall be submitted to the authorized body in the Kazakh and Russian languages directly or sent by mail. The accompanying materials to the objection shall be presented in the Kazakh and Russian languages. If the accompanying materials are submitted in another language, the objection shall be accompanied by the notarized translation into Kazakh and Russian languages.

If the objection is submitted by facsimile or e-mail, it must be confirmed by the original hard copy no later than one month from the date of receipt of such objections.

The objection shall be submitted within the time limits, established by this Law.

The deadline, missed by the applicant for the objections, specified in subparagraphs 1) and 2) of this paragraph may be reinstated if there are the valid reasons and in the presentation of the payment for reinstatement of the missed deadline. The request for the reinstatement of the missed deadline may be filed by the applicant within the time limits, established by this Law. Such request shall be submitted together with the objection to the appeal board.

3. In the event of filling the objection through a patent attorney or other representative, the power of attorney shall be submitted in the Kazakh and Russian languages, if the power of attorney is submitted on the other (foreign) language, the power of attorney must be translated into Kazakh and Russian languages, the translation of the power of attorney shall be certified by a notary. The objections materials shall be accompanied by the original of a notarized power of attorney or it shall be presented together with a copy to the secretary of the appeal board to confirm the notarization.

4. The filed objection must be considered at the board meeting of the appeal board within the time, prescribed by this Law. Time limit may be extended at the request of the contestant, as well as the owner of the protection document, but no more than six months from the date of expiry of the deadline for consideration of objections.

5. The person, submitting the objection, the owner of the trademark or the right to use the appellation of origin shall have the right to appeal the decision of the appeal board to the court within six months from the date of the decision.

Article 41-1. Grounds for refusal to consider the objections in the appeal board

In making the objection, it shall be refused to the consideration, if:

1) the objection is not subjected to consideration in the appeal board;

2) the objection is not signed or signed by a person, who does not have the authority to sign it;

3) the objection, filed out of time and the possibility of extending and restore the deadline is lost;

4) the applicant did not eliminate the deficiencies, relating to the requirements for the execution, content and process for filing the objection within the prescribed time.

In the presence of these circumstances, the person who filed the objection shall be notified of the fact that the receiving objection cannot be accepted for consideration and is considered as unfiled.

The person who filed the objection or his (her) representative may withdraw the filed objection before the announcement of the board's decision of the appeal board.

Article 41-2. Consideration of the objection at the board meeting of the appeal board

1. Consideration of the objection shall be carried out at the meeting of the appeal board where at least five of its members are present. Prior to the start of consideration of the dispute the confidentiality of personnel of the body of the appeal board shall be kept.

The representatives of the research institutions and the experts in the appropriate field may be invited for the presentation of the conclusion to the board meeting of the appeal board.

2. The appeal board shall have the right to postpone the meeting in the case of:

1) inability to consider the objection at the meeting due to absence of any of the persons, entitled to participate in the consideration of the objection;

2) need for parties to submit the missing, additional documents (evidence) for making the decision on the merits;

3) request of the parties.

3. Individuals, participating in the consideration of the objection, have the right to:

1) read the materials of the case, make extracts from them, order and receive their copies;

2) present the evidence;

3) participate in the examination of the evidence;

4) ask questions to the participants of the appeal process;

5) submit the application;

6) give oral and written explanations to the board members of the appeal board;

7) present their arguments and views on all the issues, arising in the course of consideration of the objection;

8) object against the applications, arguments and considerations of other persons, involved in the case.

4. The appeal board shall decide on the merits at the resolution of the dispute.

The decision shall be taken by a simple majority vote of members of the appeal board. In the case of equality of votes, the vote of the chair of the board meeting of the appeal board shall be decisive.

According to the results of consideration of the objections, the following decisions shall be made:

1) to satisfy the objections;

2) to partially satisfy the objections;

3) to postpone the consideration of the objection;

4) to dismiss the objection.

5. Within ten working days from the date of the decision, the appeal board prepares and directs the decision of the appeal board to the parties. The decision of the appeal board shall be in writing and shall consist of an introduction, narrative, motivation and conclusion parts.

The decision of the appeal board shall be signed by all members of the appeal board.

Article 42. Settlement of disputes

1. The following disputes are subjected to consideration by the courts:

- 1) on the legality of the issuance of the certificate;
- 2) on the violation of the exclusive rights of the owner of the trademark or the right to use the appellation of origin;
- 3) on the conclusion and execution of licensing agreements for use of the trademark;
- 3-1) on the legality of the recognition of the trademark as well-known;
- 4) other disputes, relating to the protection of the rights, arising from the certificate.

2. The expert organization on the basis of the court decision shall publish the information on the changes in registration.

Article 43. Liability of legal entities and individuals for violation of the legislation on the trademarks and appellations of origin

1. Infringement of the exclusive rights of the owner of the trademark or the right to use the appellation of origin shall be recognized an unauthorized introduction of the trademark or appellation of origin or the designation, similar to them confusingly, into the civil circulation in relation to the similar goods and services, and in the case of the well-known trademark - in respect of any goods or services.

Infringement of the exclusive right of the owner of the trademark or the right to use the appellation of origin shall be also recognized an unauthorized use of the trademark or appellation of origin in the public telecommunication networks (the Internet and others).

2. For the use of protected trademark or appellation of origin, as well as the designations, similar to it to the point of confusion, for the similar goods in violation of this Law, the guilty persons shall be liable in accordance with the Laws of the Republic of Kazakhstan.

Article 44. Responsibilities of the person, who infringes the right of the owner of the trademark or the right to use the appellation of origin

A person, who unlawfully using the trademark or appellation of origin or the designation, similar to them to the point of confusion, shall:

- 1) stop the violation and compensate the owner of the trademark or the right to use the appellation of origin the incurred losses;
- 2) destroy the manufactured image of the trademark or appellation of origin, removed the unlawfully used trademark or appellation of origin, as well as the designation, similar to them to the point of confusion from the good, its packaging, forms or other documents. If it is impossible to meet this requirement the relevant good shall be destroyed in accordance with the legislation of the Republic of Kazakhstan.

Chapter 13. Concluding provision

Article 45. State duty

The state duty shall be incurred in accordance with the tax legislation of the Republic of Kazakhstan for the commission by the authorized body of actions on issuing the licenses, certificates, registration of contracts, certification of patent attorneys and issuing the certificate for registration of a patent attorney.

Article 46. Patent attorneys

1. Patent attorney may be the capable citizen of the Republic of Kazakhstan who is domiciling on its territory, with the high education and work experience in the field of intellectual property no less than four years, and certified and registered by the authorized body in the field of intellectual property.

For certifying the candidates for patent attorneys, the authorized body shall form the certification commission from the staff of the authorized body and the expert organization. In this case, the minimum number of members of the certification commission shall consist of no less than five employees.

Certification of the candidates for patent attorneys shall be conducted by the authorized body at least once a year upon receipt of applications from the candidates for patent attorneys.

According to the results of certification the certification commission makes the decision on the certification or refusal to certify the candidate. The form of the certification commission's decision shall be approved by the authorized body.

The decision of certification commission may be appealed to the court within three months from the date of issuance of such the decision.

The candidate, successfully passing the qualifying examination for the patent attorney shall be issued with the patent agent certificate, the form of which is established by the authorized body.

The state duty, established by the tax legislation of the Republic of Kazakhstan shall be charged for the certification of candidates for patent attorneys and the issuance of the certificate.

2. The following persons shall not be allowed for the certification of candidates as patent attorney:

- 1) who are not allowed to engage in the entrepreneurial activities, in accordance with the Laws of the Republic of Kazakhstan;
- 2) who are the employees of the authorized body and its subordinate organizations, as well as their close relatives, spouse (wife);
- 3) has the unserved or not taken conviction of a crime, in the order, established by the law;
- 4) those, who are excluded from the register of patent attorneys in accordance with this Law.

3. Activity of patent attorney shall be suspended by the protocol decision of the certifying commission:

- 1) based on the application of the patent attorney, filed in the certification commission;
- 2) for the period of reference to the persons who, in accordance with the Laws of the Republic of Kazakhstan are prohibited to engage in the entrepreneurial activities, including the employees of the authorized body and its subordinate organizations;

3) in order to clarify the circumstances, specified in subparagraphs 2) and 6) of paragraph 1 and paragraph 5 of Article 46-2 of this Law.

In the case, specified in subparagraph 3) of this paragraph, the activity of a patent attorney shall be suspended until the decision of the certification commission within three months.

The activity of a patent attorney shall be renewed by the protocol decision of the certification commission in the case of elimination of the grounds that have served to the suspension of its activities.

4. Patent attorney as a representative of the applicant carries out the activity, related to the conduct of case with the authorized body and the expert organization, on the legal protection of intellectual property. Conducting of case with the authorized body and the expert organization can also be carried out by the applicant and (or) the owner of the trademark independently.

The individuals, living outside the Republic of Kazakhstan or foreign legal entities, shall exercise their rights of the applicant, the owner of the trademark, service mark, or the appellation of origin, as well as the rights of the interested person in the authorized body and its institutions through the patent attorneys.

Individuals, permanently domiciling in the Republic of Kazakhstan, but temporarily domiciling abroad, may exercise their rights of the applicant, the owner of the trademark, service mark, or the appellation of origin, as well as the rights of the interested person without the patent attorney when they specify the address for service within the Republic of Kazakhstan.

5. The information that a patent attorney receives from the principal in connection with the performance of his (her) order, is acknowledged as confidential in compliance with requirements of the legislative acts of the Republic of Kazakhstan on the protection of official and trade secrets.

Article 46-1. The rights and obligations of a patent attorney

1. A patent attorney is entitled to carry out on the benefit of the applicant (individual or legal entity), the employer, who entered into an employment contract with him (her), or the person, who concluded with him (her) or his (her) employer a civil contract, the following activities:

1) the advising on the protection of the intellectual property rights, the acquisition or transfer of the intellectual property rights;

2) the implementation of the execution and preparation of applications for the registration of trademarks, service marks and appellations of origin, on behalf of the customer, the principal, the employer;

3) the interaction with the authorized body and (or) the expert organization for the protection of trademarks, service marks and appellations of origin, including the maintenance of correspondence, preparation and sending of the objections to the examination decisions, participation in meetings of the expert council of the expert the organization;

4) the assistance in drafting, consideration and the subsequent sending of the license (sublicense) contracts and (or) the assignment contracts to the examination.

2. The powers of a patent attorney are certified by the power of attorney.

3. In case of submission of a copy of the power of attorney by the patent attorney to conduct the cases, related to the filing of applications for trademarks (service marks) and appellations of origin and (or) the obtaining the protection documents, as well as the filing the objection to the appeal board within three months from the date

of the specified application or objection, the patent attorney must submit the original power of attorney, respectively, in the expert organization and the authorized body. After the confirmation of the authenticity, the original power of attorney must be returned.

If a power of attorney is drawn up in the foreign language, its translation into Kazakh and Russian languages, certified by a notary must be submitted.

4. A patent attorney must accept the instruction in cases, if in this case he (she) presented and consulted the persons, whose interests conflict with the interests of the person, who filed the request for the conduct of the case, or otherwise participated in the consideration and if the official, who is a close relative of a patent attorney, husband (wife) and his (her) close relative participates in the consideration.

Article 46-2. Revocation and cancellation of the certificate of a patent attorney

1. A patent attorney shall be excluded from the register of patent attorneys by the decision of the certification commission:

- 1) on the basis of the personal application, submitted to the certification commission;
- 2) under the loss of citizenship of the Republic of Kazakhstan or the departure for permanent residence outside of the Republic of Kazakhstan;
- 3) in the event of break in a professional activity of a patent attorney for more than five years;
- 4) upon entry into force of a judgment of conviction, under which the patent attorney is convicted of a crime;
- 5) in case of death of a patent attorney or declaration him (her) as missing or declared as dead;
- 6) in the event of acknowledgment of a patent attorney as fully or partially legally incapable.

2. In the case of exclusion of the patent attorney from the register, on the grounds, specified in subparagraphs 4), 5) and 6), the certificate shall be cancelled by the decision of the certification commission. The information on the cancellation of the certificate shall be entered in the register of patent attorneys.

3. In the cases, specified in subparagraphs 1), 2) and 3) of paragraph 1 of this Article, the certificate of a patent attorney shall be revoked by the decision of the certification commission based on the application of the patent attorney or a third party, having the grounds on it.

A patent attorney, excluded from the register on the grounds of subparagraphs 1) and 2) of paragraph 1 of this article, may be re-registered as a patent attorney, without repeated passing the qualification examination, provided the termination of the grounds, that served for his (her) exclusion from the register, and filing the application to the certification commission within three years from the date of publication of the decision on the exclusion from the register. The certification commission on the submitted documents establishes the fact of termination of the grounds, specified in subparagraphs 1) and 2) of paragraph 1 of this Article.

4. A patent attorney, excluded from the register of patent attorneys, loses the right to operate the activity of a patent attorney from the date of entering the information about it, and the certificate of registration as a patent attorney is revoked or canceled.

5. In the case of unconscientious performance by the patent attorney of the obligations, established by this Law, the authorized body establishes the appeal

commission, whose composition consists of an odd number of employees of the authorized body.

The appeal commission shall be recognized a collegial body and considers the complaints of individuals and (or) legal entities, for the actions of the patent attorneys, representing their rights and legitimate interests, committed, in their opinion, in violation of the applicable legislation.

The persons, who filed the complaints against the actions of the patent attorney, and the patent attorneys, in respect of which such complaints are filed, have the right to participate at the meeting of the appeal commission.

Upon the results of consideration of the complaint, the appeal commission recommends to the authorized body to send a lawsuit on the cancellation of the patent attorney's certificate or take one of the following decisions:

1) to postpone the consideration of the complaint due to the lack of evidence, or to ascertain the circumstances that contribute to the adoption of the objective decision;

2) to dismiss the complaint.

The decision of the appeal commission shall be made by a simple majority of votes and executed in the protocol. The decision of the appeal commission may be challenged in a court.

The provision on the appeal commission shall be established by the authorized body.

Article 47. Registration in foreign countries

1. The legal entities and individuals of the Republic of Kazakhstan shall have the right to register the trademark in foreign countries, or make its international registration.

An application for the international registration of the trademark shall be filed through the expert organization.

2. The registration of the appellation of origin in foreign countries shall be made after its registration and receiving the right to use the appellation of origin in the Republic of Kazakhstan.

Article 48. The rights of foreigners and foreign legal entities and stateless persons

Foreigners and foreign legal entities, stateless persons have the same rights and obligations under this Law, along with individuals and legal entities of the Republic of Kazakhstan, unless otherwise stipulated by the legislative acts of the Republic of Kazakhstan.

*The President
of the Republic of Kazakhstan*