

## **On Amendments and Addenda to Certain Legal Acts of the Republic of Kazakhstan Concerning Intellectual Property Issues**

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The following amendments and addenda to be made to the following legal acts of the Republic of Kazakhstan:

1. Amendments to Law of the Republic of Kazakhstan "On Copyright and Related Rights" of 10 June 1996 (Newsletter of the Parliament of the Republic of Kazakhstan, 1996, Nos. 8-9, p. 237):

1) Article 2 to be set down as follows:

"Article 2. Main Terms Used in this Law

This Law uses the following terms:

- 1) *author* is a person who created a work as a result of intellectual labor;
- 2) *copyright* is property and personal non-property rights of the author;
- 3) *adaptation* of a software or a database means making changes or adjusting a software or database only for the purpose so as the software or database function on specific user's hardware or under specific user's operation system or software;
- 4) *audio-visual work* is a work consisting of a fixed sequence of frames or pictures (with or without a sound track), designated for visual or aural impression (if it has a sound track) with help of correspondent technical equipment. Audio-visual works include cinematographic films and all works represented by media similar to cinematographic (TV and video films, film-strips and slides, etc) regardless of the method of the primary or subsequent fixation;
- 5) *database* is a collection of data (articles, calculations, facts, etc), which is the result of intellectual labor due to choice and/or sorting of the materials, is systemized in such a way that the data could be found and processed with help of a computer. The notion of a database does not refer to the software for electronic access to the materials of the database;
- 6) *reproduction* is making one or more permanent or temporary copies of works or objects of related rights by any means and in any form, wholly or in part, directly or indirectly. The following are types of reproduction: making a sound track or a video clip, one or more 3D copies of two-dimensional works, as well as any constant or temporary storage of works or objects of related rights in any material form;

7) *decompiling* of software is a technical method, including conversion of the product's code into the source code with purpose to study the structure and coding of the software;

8) *making available to the public* means transmission of the objects of copyright and/or related rights, by wire or wireless means, in such a way that members of the public may access these works from a place and at a time individually chosen by them (in interactive mode);

9) *fixation* means the embodiment of sounds or images in form and by any means allowing multiple perception, reproduction or communication through a device;

10) *rights management information* means any information which identifies the work, the author of the work, the performer, the performance, producer of a phonogram, the owner of any rights in the work. This information also refers to any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work, fixation, or phonogram to the public.

11) *exclusive right* is the property right of the author or the any right holder for use of a work, fixation, phonogram, or broadcast by air, cable or any other medium for the period set herein;

12) *performance* is representation of a work, phonogram, play, or drama by acting, singing, dancing in live or with help of any technical aids (TV or radio broadcasting, cable TV, etc). Showing the frames of an audio-visual work in their sequence with or without the sound track;

13) *performers* are actors, singers, musicians, dancers, and other persons as well as directors who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;

14) *pirated c*

18) *publication*

29) *producer of a phonogram* means the person, or the legal entity, who or which takes the initiative and has the resp

41) *phonogram* means a fixation of sound performances or of other sounds or their representations in any form, except for a fixation of sounds incorporated in an audio-visual work;

42) *copy of a work* means a copy of a work in any material form;

43) *copy of a phonogram* means a copy of a phonogram on any medium, made directly or indirectly from the phonogram and including all sounds or part of sounds fixed in the phonogram.

2) in Article 5:

in paragraph 1:

add words “in the territory of the Republic of Kazakhstan” after “communicated to the public” in subparagraph (1);

add words “beyond of the Republic of Kazakhstan” after “communicated to the public” in subparagraph (2);

set subparagraph (3) in the following version:

*“3) works communicated to the public beyond the bounds of the Republic of Kazakhstan or the works that have not been communicated to the public, but exist outside of the Republic of Kazakhstan in a material form, and is recognized as belonging to authors, foreigners, and persons without a citizenship in accordance with international agreements, ratified by the Republic of Kazakhstan, taking into account subparagraphs (1) and (2) of paragraph 1 of this article”;*

add paragraph 4 as follows:

*“4. A work shall be protected in accordance with international treaties ratified by the Republic of Kazakhstan if it has not become a public property in the country of origin due to expiration of the copyright period in that country as defined by the rules of the correspondent international treaty ratified by the Republic of Kazakhstan, and if it has not become a public property in the Republic of Kazakhstan due to expiration of the copyright period.”;*

3) set the second part of Article 6 paragraph 5 in the following version:

*“Cession of the property right or the ownership right for any material object do not entail transfer of the author right for the work expressed in such object except for cases stipulated by this Law.”;*

4) remove words “(cinematographic, television, and video films, film-strips, and other cinematographic and television works)” in article 7 paragraph 1 subparagraph (6);

5) in article 9:

set paragraph 1 in the following version:





add words “or cinematography” after the word “photography” in subparagraph (5);

16) add words “and other right holder” after words “consent of the author” in the first paragraph of article 20;

17) set article 21 as follows:

*“Article 21. Free use of works permanently placed in places open for free access*



23) add paragraph 9 in article 28 as follows:

*“9. When granting protection of a work in accordance with international treaties ratified by the Republic of Kazakhstan, the period of the validity of the copyright cannot exceed the period defined in the country of origin of the work subject to paragraph 4 of article 5 of this Law*

*The periods stipulated herein shall be applied in all cases when the legal fact, which is used for the beginning of the period, took place no earlier than fifty years before this Law took effect.”;*

24) remove article 29 paragraph 2;

25) set article 31 paragraph 1 as follows:

*“1. The property rights of the author defined in article 16 herein can be ceded entirely or in part as well as they can be transferred for use by a publishing agreement on cession of exclusive rights or by a publisher’s agreement on transfer of non-exclusive rights.*

*“Any cession of property rights shall be arranged with an agreement in writing, signed by the author and the cessionary.”;*

26) in article 32:

replace words “five years” with “one year”, words “six months” with “three months” in paragraph 2;

add “except for cases stipulated by articles 14 and 33 of this Law” after the word “in the future”;

set paragraph 12 as follows:

*the country of its origin as defined by the rules of the correspondent international treaty ratified by the Republic of Kazakhstan, due to expiration of the validity period set in that country for related rights, and if has not become public domain in the republic of Kazakhstan due to expiration of the related rights validity period.”;*

28) in article 37:

set paragraph 1 subparagraph (2) as follows:

*“2) the right for protection of the performance from any mutilation or any other encroach capable of harming the honor and dignity of the performer (the right for protection of reputation);”;*

add paragraph 1-1 as follows:

*“1-1. The performer shall enjoy personal non-property rights regardless of his property rights and reserve them in case of cession of exclusive property rights for the use of the performance.”;*

set paragraph 2 as follows:

*“2. Exclusive rights of the performer for the use of the performance means the right to permit or forbid the following actions:*

*“1) fixate a performance that has not been fixated before;*

*“2) reproduce directly or indirectly a fixation of a performance in any form;*

*“3) broadcast, transmit to the public by cable or make available to the public a performance without using a fixation of the performance;*

*“4 broadcast, transmit to the public by cable or make available to the public a fixation of performance except for the cases stipulated in article 39 paragraph 1 of this Law;*

*“5) rent a phonogram containing a fixation of a performance by the performer published for commercial purpose. When concluding an agreement on fixation of the performance in the phonogram, this right transfers to the producer of the phonogram. In doing this, the performer reserves the right for the fee for renting of copies of such phonogram.”;*

29) in article 38:

set paragraph 2 as follows:

*“2. Exclusive rights for the use of a phonogram means the right to permit or forbid the following actions:*

*“1) reproduce a phonogram directly or indirectly and in any form;*

*“2) distribute the original and copies of a phonogram, including import, by means of a sale or any other form of transferring the property right;*

*“3) give phonogram for rental (lease\_, even after its distribution by the producer of the phonogram or with his permission;*

“4) *change or alter the phonogram by any means;*  
“5) *make the phonogram available to the public.*”;  
add “(lease)” after “give for rental” in paragraph 3;

30) in article 40:  
in paragraph 2:  
set the first paragraph as follows:

*“2. Exclusive rights for the use of a program means the right to permit or forbid the following actions:”;*

set subparagraph (1) as follows:

*“1) broadcast;”;*

add subparagraph (6) as follows:

*“6) make the program available to the public.”;*

add words “and cable” after “broadcasting” in paragraph 3 subparagraph (1);

31) add article 41-1 as follows:

*“Article 40-1. Transfer of exclusive rights. Licensing contract.*

*1. Exclusive rights specified in articles 37, 38, and 40 herein may be transferred in part or in full to be used under a license contract on transfer of exclusive or non-exclusive rights. The provisions of article 32 herein shall apply to such a contract.*

*2. A licensing contract must be officially registered in the authorized body in accordance with the procedure established by the laws of the Republic of Kazakhstan, and an official certificate shall be issued to certify such a registration.”;*

32) in article 41:

in paragraph 1:

replace words “broadcasting, transmission by cable” with “programs of broadcasting to cable organizations” in the first paragraph;

replace word “fonogramm” with “fonogrammy”;

replace words “broadcasting or transmitting by cable” with “broadcasting to cable organizations” in subparagraph (1);

set subparagraph (3) as follows:

*“3) for quotation in form of small passages from a performance, phonogram, program of broadcasting or cable organization, provided*



35) set paragraphs 2 and 3 of article 44 as follows:

*“2. Having the authority obtained under paragraph 3 of article 43 herein, the organization collectively managing the property rights shall make license contracts with users of works and related rights objects. Such license contracts shall permit the use of all works and related rights objects as stipulated in the contracts and including the ones which were not transferred to the managing organization in accordance with paragraph 3 of article 43 herein. The conditions of such license contracts shall be equal for all users of one category. The managing organizations cannot refuse making a license contract without a valid reason.*

*3. Users who made a license contract must officially register it and obtain the official certificate in the authorized body.”;*

36) add article 48-1 as follows:

*“Article 48-1. Control over activity of natural persons and legal entities using copyright and related rights objects*

*1. The authorized body shall control the activity of natural persons and legal*

3) add articles 3-1 and 3-2 as follows:

*“Article 3-1. The authorized body on protection of selection achievements*

*1. The authorized body on protection of selection achievements (hereinafter referred to as the authorized body) is a governmental body appointed by the Government of the Republic of Kazakhstan to regulate selection achievements area.*

*2. The power of the authorized body includes:*

*1) participation in implementation of the state policy on legal protection of selection achievements;*

*2) issuing patents for selection achievements;*

*3) control over activity of natural and legal persons using selection achievements;*

*4) making reports and considering cases on administrative infringements, imposing administrative penalties;*

*5) other functions stipulated herein.*

*Article 3-2. Expert organization*

*1. The expert organization is the organization subordinate to the authorized body and functioning as a state monopoly (providing services on protection of selection achievements).*

*2. The functions of the expert organization include:*

*1) filing applications for selection achievements;*

*2) making preliminary examination of selection achievements;*

6) in article 6:

replace words “patent issuing” with “selection achievement” in paragraph 2;

replace word “Kazpatent” with “expert organization” in paragraph 3;

7) set paragraph 1 of article 7 as follows:

*“1. The priority of sort and breed shall be defined by the date of application submission to the expert organization.”*

8) in article 8:

replace word “Kazpatent” with “the expert organization” in paragraph 1;

replace word “Kazpatent” with “the authorized body” in paragraphs 3 and 5;

replace word “Kazpatent” with “the Expert Organization” in paragraph 6;

9) replace word “Kazpatent” with “the authorized body” in article 10;

10) set paragraph 2 of article 12 as follows:

*“2. The authorized body gives an official certificate acknowledging author rights to the author of a selection achievement registered in the State Register who is not a patent holder.”*

11) in subparagraph (3) of article 13:

replace words “issuing patent” with “selection achievement”;

replace words “Kazpatent before the registration of the selection achievement in the State Register of Selection Achievements” with “the authorized body before the date of making a decision on issuing the selection achievement patent”;

12) in article 14:

in paragraph 3:

remove subparagraph (3);

add part two as follows:

*“A selection achievement significantly inherited characteristics of another (source) selection achievement is such a selection achievement that, being obviously different from the source:*

*1) inherits the most significant characteristics of the source selection achievement or such a selection achievement that inherits itself the significant characteristics of the source selection achievement, preserving the main features*

*reflecting the genotype r combination if genotypes of the source selection achievement;*

*2) matches the genotype or a combination of genotypes of the source selection achievement, with exception for deviations caused by such methods as individual selection from the source sort or kind, selection of an induced or selfreproducing mutant, back-crossing, and gene engineering.”*

remove paragraph 4;

13) add words “*or in the order of legal succession*” in article 16;

14) replace word “*Kazpatent*” with “*the authorized body*” in article 18 paragraph 4;

15) replace word “*Kazpatent*” with “*the authorized body*” in article 19;

16) replace word “*Kazpatent*” with “*the authorized body*” in article 21 paragraph 2;

17) replace word “*Kazpatent*” with “*the authorized body*” in article 22;

18) replace word “*Kazpatent*” with “*expert organization*” and remove words “*issuing patent*” in article 22;

19) in article 26:

replace words “*Kazpatent issues a newsletter to publish information*” with “*the authorized body publishes information pertaining to the registration of selection achievements in the newsletter*” in paragraph 1;

set paragraph 2 as follows:

“*2. Anybody has the right to learn the application materials after publication of the application information.*”

20) set article 27 as follows:

“*Article 27. Patenting selection achievements abroad*

“*The applicant has the right to submit the first application for protection of a selection achievement to an authorized body of another state, provided that such a state and the Republic of Kazakhstan made achievement*





1. *The expert organization is the organization subordinate to the authorized body and functioning as a state monopoly (providing services on protection of inventions, utility models and industrial designs).*

2. *The functions of the expert organization include:*

1) *filing applications for inventions, utility models and industrial designs;*

2) *making preliminary examination of inventions, utility models and industrial designs;*

3) *keeping the State Register of protected inventions, utility models and industrial designs;*

4) *publishing information on inventions, utility models and industrial designs;*

5) *other functions assigned to it by the laws of the Republic of Kazakhstan.”*

5) in article 5:

remove word “*Kazpatent*” in paragraph 3;

in paragraph 4:

add words “*and listed in the list of significant features of an industrial design*” after “*product (design)*”;

replace words “*can be drawn*” with “*can be used*”;

6) in article 10 paragraph 3:

remove word “*Kazpatent*”;

replace words “*for application submission*” with “*for obtaining document of title*”;

7) in article 11:

add part two in paragraph 1 as follows:

*“The patent holder shall enjoy the exclusive right for the use of the protected industrial property during the document of title’ period of validity, beginning from the date of publication of the information about the issue of such a document of title in the newsletter.”*

replace word “*them*” with “*patent holders*” in part two of paragraph 3;

in paragraph 4:

replace word “*invention*” with “*industrial property object*”;

replace words “*the invention has not been used*” with “*the industrial property object has not been used*”;

replace word “*Kazpatent*” with “*the authorized body*” in paragraph 6;

8) in article 13:

set part one of paragraph 1 as follows”

*“1. The person who had been legally using in Kazakhstan an independently invented/made object identical to the industrial property in question or made all necessary preparations to use it before the priority date shall reserve the right for the use of such object for free without any extension of the scope of use (the right for prior use).”*

remove word “Kazpatent” in paragraph 3;

9) in article 14:

replace word “Kazpatent” with “the authorized body” in paragraphs 4 and 5;

add part five as follows:

*“If a license agreement is made, the payment for the prolongation of the document in title shall be made beginning from the subsequent year.”*

10) add words “since the date of the first publication of information about the issue of the document in title” in article 15 paragraph 2 subparagraphs (2), (3), and (5);

11) replace word “Kazpatent” with “expert organization” in article 16;

12) in article 17:

replace word “Kazpatent” with “expert organization” in paragraph 3;

replace word “Kazpatent” with “authorized body” in paragraph 4;

13) in article 18:

replace word “Kazpatent” with “expert organization” in paragraph 3;

replace word “Kazpatent” with “authorized body” in paragraph 4;

14) in article 19:

replace word “Kazpatent” with “expert organization” in paragraph 3;

replace word “Kazpatent” with “authorized body” in paragraph 4;

15) in article 20:

in paragraph 2:

replace word “Kazpatent” with “expert organization”;

add word

replace words “*a decision is made on the issuing of a preliminary patent*” with “*the expert organization makes a positive resolution for preliminary patent*”;

remove part two;

in paragraph 6:

in part one:

replace words “*a decision is made to refuse the preliminary patent*” with “*the expert organization makes a negative resolution*”;

replace words “*a decision to refuse issuing preliminary patent is made*” with “*the expert organization makes a negative resolution*”;

in part two:

replace word “*Kazpatent*” with “*the authorized body*”;

replace words “*a decision to refuse issuing preliminary patent*” with “*the negative resolution of the expert organization*”;

set paragraph 7 as follows:

*“7. The expert organization substantially examines the application by the request of the applicant or a third party, which shall be submitted after the publication of the preliminary patent information, but no later than in five years since the date of the application submission, provided that the preliminary patent validity period was extended in accordance with article 5 paragraph 3 of this Law. A substantial examination of the application includes data research pertaining to the submitted invention so as to check the conformity of the submitted invention to the requirement of unity of invention and to patentability conditions defined in article 6 of this Law. The substantial examination shall only be made upon submission of a document certifying the payment of the fee for the application substantial examination service as well as a document certifying the payment of the fee for prolongation of the preliminary patent, if the application is submitted by the applicant.”;*

in paragraph 8:

replace word “*Kazpatent*” with “*the expert organization*” in part one;

set part two as follows:

*“Additional materials without changing the essence of the invention requested by the expert organization shall be submitted within three months since the dispatch of the request or a copy of the materials opposed to the application, provided that the said copies were requested by the applicant within two months since the date when the expert organization sent the request.”;*

set paragraph 9 as follows:

*“9. If upon the examination of the subject matter of the application (essential examination) the expert organization finds out that the application for the legal protection in specified scope meets the requirements of invention patentability defined in article 6 herein, the expert organization shall issue a positive resolution on issuing the patent for the invention formula coordinated with the applicant and with the priority specified.”*

in paragraph 10:

replace words “*the decision to refuse the patent issuing is made*” with “*expert organization makes the negative resolution*”;

replace words “*the decision to refuse the patent issuing is made*” with “*the expert organization makes the negative resolution*” in part two;

in part three:

replace word “*Kazpatent*” with “*the authorized body*”;

replace words “*decision to refuse patent issuing*” with “*the negative resolution of the expert organization*”;

in paragraph 11:

replace words “*Kazpatent has no right to make*” with “*the expert organization shall not make*” in the second sentence;

remove the last sentence;

replace word “*Kazpatent*” with “*the expert organization*” in paragraphs 12 and 13;

add paragraph 14 as follows:

“*14. If upon consideration of the application it has been found out that the application contains state secret information, the application shall be made a secret in accordance with the procedure stipulated by the laws of the Republic of Kazakhstan on state secrets.*”

18) in article 23:

set paragraph 1 as follows:

“*1. The expert organization makes a formal examination of the application after two months since the date of submission. Upon a request of the applicant in writing the formal examination can be made before the said period. In this case the applicant foregoes the right stipulated in article 21 paragraph 1 of this Law since the moment of the request submission.*

*The formal examination checks for the presence of all necessary documents and meeting the requirement set; determines the date of the application submission, the possibility of applying the submitted proposal to the objects protected as useful models, as well as it checks the unity of the useful model.*

*No check of conformity of the declared useful model for the patentability requirements defined in article 7 paragraph 1 of this Law is made. The patent is issued on the risk and responsibility of the applicant.”;*

in paragraph 2:

replace words “*a decision on the patent issuing is made*” with “*the expert organization makes the positive resolution on the patent*” in part two;

remove part three;

in paragraph 3:

in part one:

replace words *“a decision to refuse the patent issuing is made”* with *“the expert organization makes the negative resolution on the patent”*; replace words *“decision to refuse the patent issuing”* with *“the negative resolution of the expert organization”*;

set sentence one of part two as follows:

*“The applicant has the right to appeal the negative resolution of the expert organization in the authorized body within three months since the date of sending the resolution to the applicant.”*

19) replace word *“Kazpatent”* with *“expert organization”* in article 24 paragraph 1;

20) in article 25:

replace word *“Kazpatent”* with *“expert organization”* in paragraph 1;

replace word *“Kazpatent”* with *“authorized body”* in paragraph 2;

replace word *“Kazpatent”* with *“authorized body”* in paragraphs 3 and 4;

21) in article 26:

replace word *“Kazpatent”* with *“expert organization”* in paragraph 1 and 2;

replace word *“Kazpatent”* with *“authorized body”* in paragraphs 4;

add words *“and with the report on the data research by the expert organization”* in paragraph 5;

replace word *“Kazpatent”* with *“expert organization”* and add words *“as well as information about any changes in the entries in correspondent State Registers”* in paragraph 6;

22) in article 28:

in paragraph 1:

replace words *“make the decision”* with *“provide the resolution of the expert organization”*;

remove part two;

replace words *“making decision”* with *“provision of the expert organization resolution”* in paragraph 2;

23) replace word *“Kazpatent”* with *“authorized body”* in paragraph 2 of article 29;

24) in article 30:

set subparagraph (1) of paragraph 2 as follows:

*“1) upon the application submitted by the patent holder to the authorized body, since the date when the information on expiration of the document of title was published in the bulletin. If a document of title is issued for a group of industrial property objects, and the patent holder only has applied for a part of that industrial property group, the validity of the document of title shall expire only concerning the industrial property objects defined in the application;”*

replace word “Kazpatent” with “*expert organization*” in paragraph 3;

25) in article 31:

in paragraph 1:

remove words “*due to reasonable excuses and*” from part 1;

replace word “Kazpatent” with “*the expert organization*” in part 2;

add word “*of such a use*” after “*scope*” in part one of paragraph 2;

26) replace word “Kazpatent” with “*the authorized body*” in article 32 paragraph 1;

27) replace word “Kazpatent” with “*the expert organization*” in article 33 paragraph 2;

28) in article 35:

replace word “Kazpatent” with “*the expert organization*” in the heading;

replace word “Kazpatent” with “*the expert organization*” in the text, remove words “*issuing documents of title*”;

29) set article 36 as follows:

*“Article 36. Patent agents*

*1. A patent agent can be a resident citizen of the Republic of Kazakhstan, whose qualification meets the requirements. The qualification requirements to patent agents, the order of their attestation and registration shall be defined by the authorized body.*

*2. The applicant, patent holder himself or a patent agent registered in the authorized body can deal with the authorized body and the expert organization.*





*body appointed by the Government of the Republic of Kazakhstan to regulate the protection of trade marks, service marks, and names of place of origin of goods area.*

*2. The power of the authorized body includes:*

*1) participation in implementation of the state policy on legal protection of trade marks, service marks, and names of place of origin of goods;*

*2) issuing documents of title for trade marks, service marks, and names of place of origin of goods;*

*3) control over activity of natural and legal persons using trade marks, service marks, and names of place of origin of goods;*

*4) making reports and considering cases on administrative infringements, imposing administrative penalties;*

*5) other functions stipulated herein.”*

*3) add article 3-1 as follows:*

*“Article 3-1. Expert organization*

*1. The expert organization is the organization subordinate to the authorized body and functioning as a state monopoly (providing services on protection of trade marks, service marks, and names of place of origin of goods).*

*2. The functions of the expert organization include:*

*1) filing applications for trade marks, service marks, and names of place of origin of goods;*

*2) making examination of trade marks, service marks, and names of place of origin of goods;*

*3) keeping the State Registers of protected trade marks, service marks, and names of place of origin of goods;*

*4) publishing information on trade marks, service marks, and names of place of origin of goods;*

*5) other functions assigned to it by the laws of the Republic of Kazakhstan.”*

*4) in article 6:*

*in paragraph 1:*

*remove words “in particular” in the first paragraph;*

*add subparagraphs (6)-(13) as follows:*

*“[which is/are:]*

*6) in a direct descriptive and (or) associative connection with the goods or services, for denomination of which they are used;*

*“7) lines, dots, simple geometric figures, as well as their combinations that do not make a single graphic composition and making no qualitatively new level of perception other than each of the components;*

*“8) separate figures, characters, or letters combinations that do not have a word meaning, made in a regular font and comprising a combination of no less than three language units (letters and (or) figures, characters);*

*“9) a three-dimensional object, which form is determined exclusively by its functional purpose;*

*“10) of an advertising nature;*

*“11) complex compound artificially made words, even if every constituent has no distinctive capacity, and all together they do not make a qualitatively new level of perception;*

*“12) representing commonly accepted short names of organizations, economy industries, and their abbreviations;*

*“13) unpatentable medicines.”;*

in paragraph 2:

add words *“and their emblems, flags, and symbols”* after *“international organizations”* in part one;

set part two as follows:

*“Such denominations can be used as unprotected elements, if the denomination do not comprise exclusively them, and provided that a correspondent authorized body or their owner granted a permission for that.”;*

5) in article 7:

remove word *“Kazpatent”* in paragraph 1 subparagraph (3);

in paragraph 2:

remove subparagraph (2);

set subparagraph (3) as follows:

*“3) names of works of literature, science, and arts, well known in the Republic of Kazakhstan at the moment of submission of the application, pirated renown works of arts and their fragments, if the copyright*

replace words “*registration of a collective trademark*” with “*collective trademark*” in paragraph 2;

7) in article 9:

replace words “*registration of a trademark*” with “*trademark*”;

in paragraph 2:

set subparagraph (1) as follows:

“*1) the request for examination of the denomination, specifying the applicant (applicants) as well as his (their) location or residence;*”;

remove words “, for which the registration of a trademark is requested” in T6 1 Tf0 -1.53sT);

*“Priority on the divisional applications is set according to the priority date of the original application of the same applicant; and with the right for setting an earlier priority by the original application, according to the date of such a priority, provided that at the date of submission of the divisional application the original application has not been recalled and is not considered to be cancelled, and the divisional application is submitted before the resolution on the original application.”;*

add paragraph 6 as follows:

*“6. A multiple priority of a trademark pertaining to various products can be set by requests of the applicant, provided that he submitted several applications for one denomination pertaining to various products.”;*

9) in article 11:

replace word “Kazpatent” with “the expert organization” in the first paragraph of paragraph 1;

replace word “Kazpatent” with “the expert organization” in paragraph 2;

replace word “Kazpatent” with “*the expert organization*” in paragraph 3;  
set paragraph 4 as follows:

*“4. Owner of a trade mark must notify the expert organization on the changes pertaining to the registration, including information about changes in the surname, first name, middle name, and place of residence.”;*

add paragraph 5 as follows:

*“5. The expert organization makes entries about the changes defined in paragraph 4 herein as well as technical corrections in the State Register, and the authorized body, in the certificate of the trademark.”;*

13) in article 16:

replace word “Kazpatent” with “*the expert organization*”;

add part two as follows:

*“Information about the owners of the collective trademark are entered in the State Register and the certificate additionally.”;*

14) in article 18:

remove paragraph 1;

replace word “Kazpatent” with “*the expert organization*” in paragraph 3;

15) add article 18-1 as follows:

*“Article 18-1. Recognition of a trademark as renown*

*1. Upon request of a legal entity or a person, the following trademark in the Republic of Kazakhstan can be recognized as renown: registered in the Republic of Kazakhstan or protected in accordance with international treaties trademark, as well as a denomination used as a trademark without its protection in the Republic of Kazakhstan, but which became well known in the Republic of Kazakhstan due to its active use by such a person.*

*2. A renown trademark is granted the legal protection as for a trademark under this Law.*

*3. Upon recognition of a denomination or a trademark as renown in accordance with paragraph 1 herein, the owner is given a certificate valid for ten years since the date of recognition the trademark as renown.*

*The validity period of the certificate can be extended for ten years more upon a request by the owner and submission of information confirming that the trademark is renown.*

*The information about the registration of a renown trademark, its owner, and subsequent changes pertaining to such a registration shall be entered in the State Register of Renown Trademarks and published in the Newsletter.*



*“1) request for examination of the name and (or) the right for the name, specifying the applicant(s) as well as his (their) location or place of residence;”*

replace words *“submission of the application”* with *“examination services of the expert organization. The sum of the fee shall be defined in accordance with the legislation of the Republic of Kazakhstan;”* in paragraph 3 subparagraph (1);

23) in article 30:

replace word *“Kazpatent”* with *“the expert organization”* in paragraph 1;

replace word *“Kazpatent”* with *“the expert organization”* in paragraph 2;

24) in article 31:

replace word *“Kazpatent”* with *“the authorized body”*;

remove subparagraph (1) of paragraph 1;

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25) set article 33 as follows:

*“Article 33. Procedure on keeping the State Register of names of places of origin of good*

*1. After the expert organization issues a certificate for the right of use of a name of place of origin of a good, the following data shall be entered into the State Register of Names of Places of Origin of Goods: name of place of origin of a good,*



replace word “Kazpatent” with “the expert organization” in paragraph 3;

29) replace word “Kazpatent” with “the authorized body” in article 39 paragraph 2;

30) in article 40:

replace word “Kazpatent” with “the authorized body” in paragraph 2 subparagraph (3);

replace word “Kazpatent” with “the expert organization” in paragraph 4;

31) replace word “Kazpatent” with “the authorized body” in article 41 paragraph 1;

32) in article 42:

add subparagraph (3-1) in paragraph 1 as follows:

*“3-1) on the lawfulness of recognition a trademark as renown;”;*

replace word “Kazpatent” with “the expert organization” in paragraph 2;

33) in article 43:

set paragraph 1 as follows:

*“1. The following shall be qualified as infringement of the right of the owner of a trademark or of the right to use the name of place of origin of a good: unauthorized use of a trademark or the name of place of origin of goods (or designations similar to the extent of misleading the public) for the similar or identical goods, and for the any goods and services, if the trademark is well-known.*

*Unauthorized use of a trademark or the name of a good’s place of origin in public telecommunication networks (Internet, etc) shall also be qualified as infringement of the exclusive right of the owner of the trademark or of the right for the use of the name of a good’s place of origin.”;*

replace word “legislation” with “laws” in paragraph 2;

34) in article 45;

replace word “Kazpatent” with “the expert organization” in the heading;

replace word “Kazpatent” with “the expert organization” in the text, remove words “issuing documents of title”;

35) set article 46 as follows:



3) in article 11:

remove paragraph 3 subparagraph (4);

add part four in paragraph 4 as follows:

*“The authorized body gives a certificate to the author of a lay-out who is not the right holder so as to certify his authorship.”*

President of the Republic of Kazakhstan