

On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of intellectual property

Law of the Republic of Kazakhstan dated January 12, 2012 337-IV

"Kazakhstanskaya pravda" dated 20.01.2012 23-24 (26842-26843); "Egemen Kazakstan" dated 20.01.2012 23-25 (27,096)

PRESS RELEASE

Article 1. Amend the following legislative acts of the Republic of Kazakhstan:

1. The Criminal Code of the Republic of Kazakhstan of July 16, 1997 (Official Gazette of the Parliament of the Republic of Kazakhstan, 1997 15-16, Art. 211; 1998, 16, art. 219; 17-18, Art. 225; 1999 city, 20, art. 721; 21, Art. 774, 2000, 6, Art. 141, 2001, 8, Art. 53, 54, 2002, 4, Art. 32, 33; 10, art. 106; 17, art. 155; 23-24, Art. 192; 2003, 15, art. 137; 18, art. 142; 2004, 5, Art. 22; 17, art. 97; 23, Art. 139, 2005, 13, art. 53; 14, art. 58; 21-22, Art. 87; 2006, 2, Art. 19; 3, Art. 22; 5-6, Art. 31; 8, Art. 45; 12, art. 72; 15, art. 92; 2007, 1, Art. 2; 4, Art. 33; 15, art. 59; 15, art. 71; 20-21, Art. 119; 22, art. 130; 2, art. 19, 28; Law of the Republic of Kazakhstan dated January 12, 2012 337-IV "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of intellectual property and further humanization of the criminal law" dated November 18, 2011, art. 120; Law of the Republic of Kazakhstan dated November 19, 2011; the Law of the Republic of Kazakhstan dated January 12, 2012 337-IV "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of organized crime, terrorist and extremist activity" published in the Official Gazette of the Republic of Kazakhstan and "Kazakhstanskaya Pravda" dated December 12, 2011; Law of the Republic of Kazakhstan dated December 3, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on environmental issues" published in the Official Gazette of the Republic of Kazakhstan and "Kazakhstanskaya Pravda" dated December 12, 2011.

art. 59; 15, art. 71; 20-21, Art. 119; 22, art. 130; 2, art. 19, 28; Law of the Republic of Kazakhstan dated January 12, 2012 337-IV "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of intellectual property and further humanization of the criminal law" dated November 18, 2011, art. 120; Law of the Republic of Kazakhstan dated November 19, 2011; the Law of the Republic of Kazakhstan dated January 12, 2012 337-IV "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of organized crime, terrorist and extremist activity" published in the Official Gazette of the Republic of Kazakhstan and "Kazakhstanskaya Pravda" dated December 12, 2011; Law of the Republic of Kazakhstan dated December 3, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on environmental issues" published in the Official Gazette of the Republic of Kazakhstan and "Kazakhstanskaya Pravda" dated December 12, 2011.

1) in contents of table heading of Article 184 shall be replaced with the following:
"Article 184. Violation of copyright and (or) related rights"
2) Article 184 shall be amended as follows:
"Article 184. Violation of copyright and (or) related rights"
1. Attribution of authorship or coercion to co-authorship or other actions causing harm to the rights or legitimate interests of the author or other persons shall be punishable, if it causes considerable damage, -

Shall be punishable by a fine in the amount of from 100 to 200 times the calculation indices, or community service from one hundred to two hundred hours, or imprisonment for up to two years.

2. Illegal use of copyright and (or) related rights for reproduction, distribution, transportation, or manufacture of infringing copies of works for sale or other purposes with the purpose to market them shall be punishable, if it causes considerable damage, -

Shall be punishable by a fine in the amount of from 100 to 200 times the calculation indices, or community service from one hundred to two hundred hours, or imprisonment for up to one year.

3. Illegal use of copyright and (or) related rights, including the use of Internet resources for further dissemination with the purpose of

works and (or) objects of related rights in electronic digital format, caused significant damage, -

shall be punishable by a fine in the amount of from six hundred to eight hundred monthly calculation indices, or community service from two hundred to two hundred forty hours, or imprisonment for up to one year.

4. Acts stipulated in the second and third paragraphs of this Article, committed:

a) repeatedly;

b) by group of persons by previous concert or organized group;

c) on a large scale, or caused significant damage;

d) by person using his official positions shall be punishable by imprisonment from two to five years, with confiscation of property or without it. "

2. The Civil Code of the Republic of Kazakhstan (General Part), adopted by the Supreme Council of the Republic of Kazakhstan on December 27, 1994 (Official Gazette of the Supreme Council of the Republic of Kazakhstan, 1994, 23-24 (annex); 1995, 15-16, Art. 109; 20, art. 121; Bulletin of the Parliament of the Republic of Kazakhstan, 1996, 2, Art. 187; 14, art. 274; 19, art. 370; 1997, 1-2, Art. 8; 5, Art. 55; 12, art. 183, 184; 13-14, Art. 195, 205; 1998, 2-3, Art. 23; 5-6, Art. 50; 11-12, Art. 178; 17-18, Art. 224, 225; 23, Art. 429, 1999, 20, art. 727, 731; 23, Art. 916, 2000, 18, Art. 336; 22, art. 408; 2001, 1, Art. 7; 8, Art. 52; 17-18, Art. 240; 24, art. 338; 2002, 2, art. 17; 10, art. 102; 2003, 1-2, art. 3; 11, art. 56, 57, 66; 15, art. 139; 19 - 20, Art. 146; 2004, 6, Art. 42; 10, art. 56; 16, art. 91; 23, Art. 142, 2005, 10, art. 31; 14, Art. 58; 23, Art. 104, 2006, 1, Art. 4; 3, Art. 22; 4, Art. 24; 8, Art. 45; 10, art. 52; 11, art. 55; 13, art. 85; 2007, 2, Art. 18; 3, Art. 20, 21; 4, Art. 28; 16, art. 131; 18, Art. 143; 20, art. 153; 2008, 12, art. 52; 13-14, Art. 58; 21, Art. 97; 23, Art. 114, 115; 2009, 2-3, Art. 7, 16, 18; 8, Art. 44; 17, art. 81; 19, art. 88; 24, art. 125, 134; 2010, 1-2, art. 2; 7, Art. 28; 15, art. 71; 17-18, Art. 112; 2011, 2, Art. 21, 28; 3, p. 32; 4, Art. 37; 5, Art. 43; 6, art. 50; Law of the Republic of Kazakhstan dated July 22, 2011 "On amendments and addenda to some le

"2) distribute the original or copies of the work by any means: sell, modify, rent (lease), and perform other operations, including operations on the public information and communication network (right of distribution);"

3) in paragraph 4 of Article 991 the words "and industrially applicable" shall be deleted;

4) in subparagraph 5) of paragraph Article 999 the word "ten" shall be replaced with the word "fifteen";

5) in article 1020:

paragraph 1 shall be amended as follows:

"1. A legal person shall have the exclusive right to use the trade name (Article 38 of the Code) at the official blanks, print media, advertising, billboards, brochures, invoices, websites, goods and their packaging and in other cases necessary for the individualization of a legal person. ";

add paragraph 4 as follows:

"4. If existence of a trade name of legal person which is identical or confusingly similar

October 11, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of religious activity and religious associations" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya pravda" dated October 15, 2011; Law of the Republic of Kazakhstan dated November 9, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on improvement of law enforcement and further humanization of the criminal law" published in the newspapers "Egemen Kazakstan" dated November 16, 2011 and «Kazakhstanskaya Pravda» dated November 19, 2011, the Law of the Republic of Kazakhstan dated December 3, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on environmental protection" published in the newspapers "Egemen Kazakstan" dated December 10, 2011 and «Kazakhstanskaya Pravda» dated December 13, 2011.

in the third paragraph of paragraph 1 to replace the words "in accordance with the legislation of the Republic of Kazakhstan" with the words "in the order prescribed by this Law";
paragraph 1.1 shall be deleted;

3) to add Article 9.1 as follows:

"Article 9-1. The state registration of rights protected by copyright

1. The state registration of rights protected by copyright (hereinafter state registration) is produced by the authority within twenty working days from receipt of the application author (s) or copyright owner.

State registration is based on the application of the author (s) or right holder.

Application forms for registration of copyright are approved by the competent authority.

2. The application for state registration shall consist of the data about the author (s), surname, first name in full, residence, contact telephone numbers, data of the document certifying the identity of the applicant.

If the application is submitted by the right holder - his legal address is stated.

If the copyright work is derivative, it is necessary to specify the name and surname of the author (s) of the used product.

3. The following documents are presented for registration of rights on literary, scientific, dramatic, a scenario works:

- 1) application;
- 2) copy of the work;
- 3) copy of the document certifying the identity of the applicant;
- 4) original of the document confirming payment of fee for state registration.

4. The following documents are presented for registration of rights on musical work with or without text, and musical-dramatic work:

- 1) application;
- 2) recording of work, text notes in a score or piano-vocal score;
- 3) copy of the document certifying the identity of the applicant;
- 4) original of the document confirming payment of fee for state registration.

The rights on musical work created in separate co-authorship can be registered either separately, providing the right of co-author, or jointly.

5. The following documents are presented for registration rights on the work of choreography, pantomimes, audiovisual work:

- 1) application;
- 2) recording of work;
- 3) description of the work;
- 4) copy of the document certifying the identity of the applicant;
- 5) original of the document confirming payment of state registration fee.

6. The following documents are presented for registration of rights on works of architecture, urban planning and landscape architecture:

- 1) application;
- 2) sketches, blueprints, drawings;
- 3) detailed description of the work;
- 4) copy of the document certifying the identity of the applicant;
- 5) original of the document confirming payment of fee for state registration.

7. The following documents are presented for registration of rights on the works of painting, sculpture, graphics and applied art:

- 1) application;
- 2) copy of work or image of a work in the form of photographs;
- 3) detailed description of the work;
- 4) copy of the document certifying the identity of the applicant;
- 5) original of the document confirming payment of fee for state registration.

8. The following documents are presented for the registration of rights on photographic works

"4) right to open access to the work for indefinite circle of people (right of disclosure), with the exception of works created in the performance of official duties or of duty of the employer.";

5) subparagraph 2) of paragraph 2 of Article 16 shall be amended as follows:

11) add Article 47-1 with paragraph 4) 5) 6) 7) as follows:

The licensor bears responsibility to the licensor for actions of sub-licensee unless the licensing agreement provides otherwise.

4. The license and sublicense agreements shall be concluded in writing and shall be registered by the authorized body. Non-observance of the written form or registration requirement entails the invalidity of the contract.

Registration of license agreements is subject to examination of the materials made by expert organization.

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

Application form is submitted to the expert organization to register a license contract.

The application shall be accompanied by:

1) The original contract in quadruplicate, equipped with a title page. Each copy of the contract stitched, sealed with a paper seal, on which shall be recorded the number of sheets tied together and numbered; there are the stamp and signature of both parties or unauthorized persons on both sides.

Submission of materials for registration must be carried out no later than six months from the date of signing the contract.

Notarized copies of the contract may be submitted instead of original contract;

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

3) document confirming payment of state duty. National applicants, except for the above documents, provide the solution controls the licensor (sub-licensor) (General Meeting of the founders or shareholders) on the conclusion of the contract and providing the authority to sign the contract if the head of the organization applying on behalf of the person.

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

The application must relate to one license agreement.

Individuals living outside the Republic of Kazakhstan, or foreign legal entities applying materials to the authorized body of the contract on its own behalf, exercise the rights relating to the registration of the contract through a registered patent attorney of the Republic of Kazakhstan.

Citizens of the Republic of Kazakhstan, temporarily residing abroad, exercise the rights relating to the registration agreement, without a patent attorney in case of address for correspondence within the territory of the Republic of Kazakhstan.

5. Expert organization after the submission of a list of documents for registration by the applicant within fifteen working days from the date of receipt of application for the preliminary examination of received documents, during which required documents and compliance with the requirements set for them are checked, in the absence of document confirming payment of the examination in materials attached to the application of the contract, the a

be eliminated, expert organization sent a request to the applicant with a proposal within three months from the sending date to submit missing or corrected documents or make the necessary changes and additions. In this case, terms of the examination referred to in paragraph 5

but with immediate notification of him and payment of commensurate compensation. The disputes on the amount of compensation shall be resolved by the court.";

7) add Chapter 5 with Article 20-1 as follows:

"Article 20-1. The assignment of the patent the right to receive a patent for selection invention

1. The assignment of the patent or the rights to receive a patent for selection invention

The objection provided by subparagraph 1) and 2) of this paragraph, is supplied by the applicant or his successor, either directly or through a representative.

The objection provided by subparagraph 3) of this paragraph is supplied by any interested person, either directly or through a representative.

Objection is submitted to the authorized body in Kazakh and Russian, either directly or by mail. The materials attached to the objection are submitted in Kazakh and Russian. If the attached materials are in another language, a notarized translation into Kazakh and Russian is attached to the objection.

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

The objection is filed within the terms established by this Law.

Missed deadline for objections by the applicant provided by subparagraph 1) and 2) of this paragraph may be reinstated at the presence of a cause and the document on payment of the missed deadline recovery. The petition for reinstatement of missed deadline may be filed by the applicant from the date of expiry of the missed deadline. The application shall be submitted simultaneously with an objection to the Appellate Council.

3. In the case of filing of objection by a patent agent or other representative a power of attorney is filed in Kazakh and Russian, if the a power of attorney is filed in other (foreign) language, power of attorney must be translated into Kazakh and Russian, the translation of a power of attorney is notarized. The original of notarized power of attorney is attached to the objections materials or it is filed with a copy to the Secretary of the Appellate Council to confirm notarization.

4. Filed objection shall be considered at the board meeting of the Appellate Council within the term prescribed by this Law. Review term may be extended at the request of the person who filed the objection and the patentee, but not more than for six months from the date of expiry of the deadline for the consideration of objections.

5. A person filed an objection, the patentee has the right to appeal against the decision of the Appellate Council within six months from the date of the decision.

Article 22-2. Grounds for refusal to consider objections to the Appellate Council

Acceptance of objection to the consideration shall be refused if:

- 1) an objection shall not be justiciable in the Appellate Council;
- 2) an objection is not signed or signed by a person not having authority to sign it;
- 3) an objection is filed with the violation of the specified term and the possibility of renewal and restoration of this period has been lost;
- 4) the applicant within the prescribed period does not circumvent the difficulties relating to requirements for design, content and procedure for filing objections.

In the presence of these circumstances the person who filed the objection shall be notified that an objection received cannot be taken into consideration and is considered to be unfiled.

A person filed an objection or his representative may withdraw an objection filed before the announcement of the decision of the board of the Appellate Council.

Article 22-3. Consideration of objections at the board meeting of the Appellate Council

1. Consideration of the objections is carried out at the board meeting of the Appellate Council consisting of not less than five members. Prior to the start of the dispute consideration the confidentiality of personnel board of the Appellate Council must be provided.

To provide conclusions at the board meeting of Appellate Council representatives of scientific organizations and specialists of appropriate profile may be attended.

2. Board of Appellate Council shall have the right to postpone the meeting in case of:

- 1) inability to consider the objections at this meeting due to the absence of any of the persons entitled to take part in the consideration of objections;
- 2) need to submit the missing, additional documents (evidence) for a decision-making by parties;
- 3) at the request of the parties.

3. Individuals participating in the consideration of objection have a right to:
- 1) peruse with the case, make extracts from them, order and receive copies thereof;
 - 2) present evidence;
 - 3) participate in the evidence;
 - 4) ask questions to the participants of Appellate process;
 - 5) petite;
 - 6) give oral and written explanations to the members of the Board of Appellate Council;
 - 7) present their arguments and views on all issues arising during the consideration of objections to the issues;
 - 8) oppose the motions, arguments and views of others involved in the case.

4. The Board of Appellate Council shall make a decision in resolution of the dispute on the merits of.

The decision is taken by a simple majority of the Board members of Appellate Council. When votes are equal the chairman's vote of the board meeting of the Appellate Council shall be decisive.

Upon consideration of objections the following decisions are made:

- 1) to satisfy the objections;
- 2) partially to satisfy the objections;
- 3) to postpone consideration of objections;
- 4) to dismiss the objection.

5. Within ten working days from the date of the decision-making the Board of Appellate Council shall prepare and send to the parties the decision of the Appellate Council. The decision of the Appellate Council is set out in writing and shall consist of an introduction, descriptive,

4) are excluded from the register of patent agents in accordance with this Law.

3. The activities of a patent agent suspended by the decision of the Certification Commission:

1) based on the application of a patent agent, filed to the Certification Commission;

2) for the period referring to persons in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities, including the staff of the authorized body and its subordinate organizations;

3) in order to clarify the circumstances provided by subparagraphs 2) and 6) of paragraph 1 and paragraph 5 of Article 22-6 of this Law.

In the case provided by subparagraph 3) of this paragraph, the activity of a patent agent is suspended until the decision-making by the Certification Commission for three months.

The activities of a patent agent resumed by the decision of the Certification Commission in the case of the shortcomings caused the suspension of its activities.

4. Information which a patent agent receives from the trustor due to the performance of his instructions shall be recognized as confidential by compliance with the requirements applicable by the legislative acts of the Republic of Kazakhstan as confidential information or other secrets protected by the law. ";

Article 22-5. The rights and obligations of a patent agent

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

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

2) carry out works on the design and preparation of applications for selection inventions on behalf of and in the name of the customer, principal, employer;

3) interaction with the authorized body (or) expert organization for the protection of rights for selection inventions, including letter exchange, preparation and sending of the objections for the decision of examination, participation in meetings of the advisory council of experts organization;

4) assist in the preparation, consideration and onward dispatch for examination of licensing (sublicensing) agreements and contracts of assignment.

2. Powers of patent agent attorney is certified by a power of attorney.

3. If patent agent submits a copy of power of attorney to conduct businesses related to the filing of applications for selection inventions, and (or) receipt of protection documents, as well as filing an objection to the Appellate Council within three months from the date of this application or objection patent agent is obliged to submit the original power of attorney, respectively, to the expert organization and the authorized body. After confirming the authenticity of the original power of attorney must be returned.

If the power of attorney is made in a foreign language, its notarized translation into Kazakh and Russian must necessarily be represented.

4. A patent agent is obliged not to accept commission in cases if he in the case represented or advised persons whose interests are contrary to the interests of the person requesting the conduct of business, or otherwise take part in consideration, and if the case involved an official, who is closely related to patent agent, husband (wife) and (or) his (her) close relative.

Article 22-6. Revocation and cancellation of certificate of patent agent

1. A patent agent is excluded from the register of patent agents by the decision of certification commission:

1) on the basis of personal application submitted to the Certification Commission;

2) termination of citizenship of the Republic of Kazakhstan or at the exit for permanent residence outside the Republic of Kazakhstan;

3) In the event of interrupt of professional patent agent activity for more than five years;

- 4) upon the entry into force of a judgment of conviction, by which the patent agent was convicted of committing a crime;
- 5) in the case of the death of a patent agent or a his recognition as missing or declared dead;
- 6) In the event that a pate

"The order extending the validity of the innovation patent and ~~pat~~ for the invention, the patent for utility model and industrial ~~sign~~ is determined by the authorized body.";

court with a claim on being granted a compulsory non-exclusive licence when the item of industrial property was not continuously used after the first publication of information on the issue of the protection document on the industrial property item during any four years preceding the date of submission of such claim. If the patentee does not prove that non-use is stipulated by good reasons, the court shall grant the indicated licence with determination of limits of use, deadlines, amount and procedure for payments. The amount of payments shall be established not lower than the market price of the licence as determined in accordance with the established practice.

Any compulsory licence shall be issued in the first instance for providing for demands of the domestic market of the Republic of Kazakhstan.

The right to use the indicated industrial property item may be assigned by the person to whom the compulsory licence was granted to another person only together with the relevant production in which this item is used.

The compulsory licence shall be subject to revocation by the court in the case of termination of the circumstances which were the reason for its issue.

5. The patentee who cannot use the item of industrial property without infringing the right of the holder of another patent who has refused to conclude a licensing agreement on acceptable commercial terms shall have the right to apply to the court with application claim on being granted a compulsory non-exclusive licence to use the item of industrial property in the territory of the Republic of Kazakhstan.

If the patent holder who cannot use the item of industrial property without infringing the rights of the holder of another patent proves that this industrial property item represents an important technical advance and has a considerable economic significance in relation to the item of industrial property of another

2) Power of Attorney in the case of an application through the offices of patent agent or other representative;

3) a document confirming payment of state duty.

National applicants, except for the above documents, shall provide the decision of governing bodies of the holder of protection document or the exclusive rights, the general meeting of shareholders or founders on the issue of the contract conclusion and providing the authority to sign the contract by the head of the enterprise.

The application and other required documents shall be submitted in Kazakh and Russian. Foreign names and names of legal persons shall be indicated in the Kazakh and Russian transliteration. If the documents are submitted in another language, the application shall include notarized translation into Kazakh and Russian.

The application must relate to the contract of assignment.

Natural persons living outside the Republic of Kazakhstan, or foreign legal persons submitting materials of the contract to the authorized body on their own behalf, exercise the rights relating to the registration of the contract through a registered patent agent of the Republic of Kazakhstan.

Citizens of the Republic of Kazakhstan, temporarily residing abroad, exercise the rights relating to the registration of the contract, without a patent agent but with indication of address for correspondence within the territory of the Republic of Kazakhstan.

7. After submission of documents for registration expert organization within fifteen working days from the date of receipt of application conducts a preliminary examination to check the presence of the required documents and their compliance with the requirements. In case of absence of the document proving payment of the examination, the applicant shall be billed for payment. In this case, deadlines shall be calculated from the date of receipt of payment by the expert organization.

Based on the materials of contract of assignment accepted for consideration substantive examination shall be carried out within twenty days, during which materials of the contract of assignment shall be studied in accordance with the present legislation of the Republic of Kazakhstan.

8. Removable reasons that prevent registration of the contract of assignment:

1) no payment for the keeping in force of the protection document;

2) provisions in the contract of assignment which are contrary to the civil legislation of the Republic of Kazakhstan and international treaties ratified by the Republic of Kazakhstan.

9. In case of violation of the requirements for registration of documents or reasons specified in paragraph 8 of this article, preventing registration of the contract of assignment, expert organization shall send a request to the applicant with a proposal within three months from the date of its sending to submit the missing or corrected documents or make necessary amendment. In this case deadlines specified in paragraph 7 of this article for the substantive examination shall be calculated from the date of submission of the missing or corrected documents.

The decision on registration or refusal of registration of the contract of assignment shall be made by the authorized body within five working days from receipt of the expert organization opinion.

12. After the decision on registration of the contract authorized body shall:

- 1) draw an annex to the protection document for an item of industrial property;
- 2) stamp the front page of the contract by its registration with indication of the date of registration and its registration number;
- 3) include information about the contract in the register of contracts;
- 4) send two copies of a registered contract and annex to the protection document to the address for correspondence specified in the application;
- 5) send the control copy of the contract and decision to the expert organization to publish information on the registration of the contract.

The third and fourth copies of the contract shall be kept in the authorized body and expert organization as control copies.

Expert organization on registered contracts shall publish information on registered contracts in the Gazette, including number and date of registration of the contract, the name or full details of the contracting parties, the subject of the contract, validity of the contract and the territory of the contract.

Any person may obtain an extract from the register of registered contracts of assignment relating to information on registered contracts of assignment that are open for publication.

Familiarization of third parties with the text of

The application shall include:

1) original contract in four copies, equipped with a title page. Each copy of the contract is stitched, sealed with a paper seal, which shall be recorded on the number of bound and numbered pages, shall bear the stamp and signature of authorized officials of both parties or the applicant.

Submission of materials for registration must be carried out no later than six months from the date of signing the contract.

Notarized copies of the contract may be submitted instead of original contract;

2) Power of Attorney in the case of an application through the offices of patent agent or other representative;

3) a document confirming payment of state duty.

National applicants, except for the above documents, provide the decision of governing bodies of the licensor (if licensor) on the issue of the contract conclusion and providing the authority to sign the contract by manager of the enterprise in case of application on behalf of the entity.

The application and other required documents shall be submitted in Kazakh and Russian. Foreign names and names of legal persons shall be indicated in the Kazakh and Russian transliteration. If the documents are submitted in another language, the application shall include notarized translation into Kazakh and Russian.

The application must relate to one licensing agreement.

Natural persons living outside the Republic of Kazakhstan, or foreign legal persons submitting materials of the contract to the authorized body on their own behalf, exercise the rights relating to the registration of the contract through a registered patent agent of the Republic of Kazakhstan.

Citizens of the Republic of Kazakhstan, temporarily residing abroad, exercise the rights relating to the registration of the contract, without a patent agent with indication of address for correspondence within the territory of the Republic of Kazakhstan.

4-2. The provisions set forth in paragraphs 7 of Article 11 of this Law shall be applied in signing of licensing agreement.

The licensing agreement (sub-licensing agreement) shall enter into force on the date of its registration by the authorized body. ";

paragraph 6 shall be amended as follows:

"6. In emergency situations in the country the Government of the Republic of Kazakhstan shall have the right to allow to use the item of industrial property without the consent of the patentee, but with immediate notification of and payment of commensurate compensation. The disputes on the amount of compensation shall be resolved by the court.";

13) In paragraph 5 of Article 20 the words "until the date of the adoption by the authorised body of a decision on the issue of the protection document" with "until the date of registration in the relevant state register of the Republic of Kazakhstan";

14) In the third part of paragraph 7 of Article 22, the words "the payment for the expert examination " with the word " the expert examination";

15) the first part of paragraph 8 of Article 22-1:

after the words "consideration of the application" add the words "or patentee after the issuance of the innovation patent";

add the words "or by the patentee";

16) the third part of paragraph 2 of Article 23 shall be amended as follows:

"The resolution of the expert organization shall be sent to the authorized body to pass a decision on the issuance of the patent within the period of ten days, about which (in case if such decision was made), the applicant shall be notified.

On the basis of the resolution of the expert organisation the authorized body shall make a decision concerning issue or denial of issue of a patent for the useful model.

Within three months from the date of notification on decision made by the authorized body on the patent the applicant shall submit to expert organization a document confirming the payment for issuance of a patent and publication, as well as the payment of state duty. In case of a failure to submit the indicated documents the fee of payment may be recovered within three months. Otherwise, the application shall be kept and the proceedings on the application shall terminated, whereof the applicant shall be notified ";

17) in Article 24:

in the first part of paragraph 2:

after the number "1)" add the number "2)";

- 5) make a petition;
 - 6) give oral and written explanations to the members of the Board of Appellate Council;
 - 7) present their arguments and views on all issues arising during the consideration of objections to the issues;
 - 8) oppose the petitions, arguments and views of others involved in the case.
4. The Board of Appellate Council shall make a decision in resolution of the dispute on the merits of.

3. The activities of a patent agent suspended by protocol decision of Certification commission:

12, art. 88, 2009; 2-3, Art. 7; 15-16, Art. 74, 2010; 5, Art. 23; 22, art. 130; 2011; 1, Art. 2; 11, art. 102):

1) add paragraph 3 of Article 13, after the word "demonstration" with the words "on Copyright and Related Rights in the Internet";

2) Paragraph 1 of Article 17 shall be amended as follows:

"1. Editorial Board, the owner of an Internet resource must observe the right to use item of intellectual property including copyrights, related and other intellectual property rights. ";

3) Paragraph 3 of Article 24 shall be amended as follows:

"3. The ban judicially is imposed on the distribution of products of foreign mass media derogatory the Constitution of the Republic of Kazakhstan and the provisions of this Act, and for foreign media, which are web resources - the suspension of access to these Internet resources in the territory of the Republic of Kazakhstan. ".

10. The Law of the Republic of Kazakhstan dated July 26, 1999 "On Trademarks, Service Marks and Appellations of Origin" (Bulletin of the Parliament of the Republic of Kazakhstan, 1999, 21, Art. 776, 2004, 17, art. 100; 2005, 21-22, Art. 87; 2007, 5-6, Art. 37; 2011, 11, art. 102):

1) Article 1 shall be amended as follows:

"Article 1. The basic concepts used in this Act

The following basic concepts are used in this Act:

1) the exclusive right - a property right holder to use the trademark or appellation of origin in any manner at his discretion;

2) Newsletter - the official periodical on protection of trademarks and appellations of origin;

3) name of the geographical object - is an indication that identifies a product originating from a particular territory, region or locality;

4) well-known trademark - a designation that is used as a trademark or a trademark acknowledged as well-known by virtue of international agreements the ratification of which is the Republic of Kazakhstan, the decision of the competent authority or court, based on the evidence of interested parties;

5) Applicant - legal person or individual filed an application for trademark registration or registration and granting right to use the appellation of origin;

6) patent agents - citizens of the Republic of Kazakhstan entitled in accordance with the legislation of the Republic of Kazakhstan to represent individuals or legal entities to the competent authority and expert organization;

7) The International Classification of Goods and Services - the classification adopted by the Nice Agreement dated June 15, 1957, as subsequently amended;

8) trademark, service mark (hereinafter the trade mark) - mark registered in accordance with this Act, or protected without registration by virtue of international treaties in which the Republic of Kazakhstan participates, which serve to distinguish the goods (services) of one natural or legal person from homogeneous goods (services) of other legal or natural persons;

9) the use of a trademark or appellation of origin - the use of a trademark or appellation of origin for the goods and in rendering services for which they are protected, and (or) their packaging, manufacturing, transportation, possession, offering for sale, sale of goods with a designation of a trademark or appellation of origin, use in billboards, advertising, printed materials and other business documentation, transfer trademark rights, as well as other introduction into civil circulation;

10) the owner of the trademark or the right to use the appellation of origin - a legal person or individual conducting business, having the exclusive right to the trademark or the exclusive right to use the appellation of origin accordance with this Act;

11) the appellation of origin - a designation that represents or includes the name of a country, region, settlement, locality or other geographical objects well as an indication derivative from that name which has become known as the result of use in relation to the good the special

properties, quality, reputation or other characteristics of which are exclusively or essentially attributable to its geographical origin, including natural and human factors;

12) the collective trademark - a trademark of an association or any other union of legal persons and (or) individual entrepreneurs (hereinafter - the union) that is used for designation of produced or sold goods (services) that have a common qualitative or other characteristics";

2) add paragraph 2 of Article 31 with subparagraphs 2-3) and 2-4) as follows:

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

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

3) add paragraph 2, Article 31 with subparagraph 2-1) as follows:

«2-1) the examination of contracts on the transfer of rights on trademarks and service marks;"

4) Article 6:

subparagraph 4), 5) 7) 8) 9) 10)), 11), and 13) of paragraph 1 shall be deleted;

replace in the subparagraphs 1) and 3) paragraph 3 the words "geographical indications" with the words "names of geographical objects";

5) In Article 7:

in paragraph 1:

replace in subparagraph 2) the words "well known" with the words "with acknowledged as well-known in the prescribed manner";

subparagraph 4) shall be deleted;

subparagraph 5) shall be amended as follows:

"5) appellations of origin protected in the Republic of Kazakhstan in relation to any goods, unless they can be incorporated as unprotected under a trademark registered in the name of the person authorized to use this appellation if registration of a trademark is executed for the same good for individualization of which appellation of origin

3. Based on the results of a complete examination the authorized body shall, within fifteen working days, register the trademark or refuse registration. The decision to register may apply to the entire list of products and services or to its parts.

4. The decision to register a trademark prior to its introduction into the state register of trademarks may be reviewed in connection with the discovery of an application with earlier priority.

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

In case of failure to provide documents confirming payment of the state fee for issuance of a trademark certificate and payment for the expert organization actions for the preparation of documents for the issuance of the trademark certificate registration of trademark shall not be carried out and the corresponding application for trademark shall be considered as withdrawn.

4. Based on the acknowledgement of registration or trademark as well-known a certificate is issued to its owner which is valid for ten years from the date the acknowledgement of a trademark.

Validity of the certificate at the request of the owner and presentation of data confirming the well-known status of a trademark shall be extended for further ten years.

Information about registration of a well-known trademark, its owner and any future changes relating to such registration shall be included into the State Register of well known trademarks and published in the Gazette. ";

11) in Article 19:

the second sentence of the second paragraph 4 shall be amended as follows:

together and numbered; there are the stamp and signature of both parties or unauthorized persons on both sides.

Submission of materials for license agreement registration must be carried out no later than six months from the date of signing the contract.

Notarized copies of the contract may be submitted instead of original contract;

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

3) document confirming payment of state duty.

National applicants of license agreement, except for the above documents, provide the solution controls the licensor (s-licensor) (General Meeting of the founders or shareholders) on the conclusion of the contract and providing authority to sign the contract if the head of the organization applying on behalf of the person.

National applicants of assignment agreement except for the above documents, provide the solution controls the governing bodies of owner's protection document or exclusive rights, General Meeting of the founders or shareholders on the conclusion of the contract and providing the authority to sign the contract if the head of the organization.

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

The application must relate to one assignment agreement on a trademark and license agreement.

Individuals living outside the Republic of Kazakhstan, or foreign legal entities applying materials to the authorized body of the contract on its own behalf, exercise the rights relating to the registration of the contract through a registered patent attorney of the Republic of Kazakhstan.

Citizens of the Republic of Kazakhstan, temporarily residing abroad, exercise the rights relating to the registration agreement, without a patent attorney in case of address for correspondence within the territory of the Republic of Kazakhstan.

4. Expert organization after the submission of a list of documents for registration by the applicant within fifteen working days from the date of receipt of application for the preliminary examination of received documents, during which required documents and compliance with the requirements set for them are checked, in the absence of document confirming payment of the examination in materials attached to the application of the contract, the applicant shall be billed for payment. In this case, the fees are calculated from the date of receipt of payment to expert organization.

Substantive examination is held according to the accepted materials of assignment agreement on a trademark or license agreement within twelve days, which study the materials of assignment agreement on a trademark or license agreement in accordance with the legislation of the Republic of Kazakhstan.

5. Reasons that prevent registration of assignment agreement on a trademark and a license agreement that can be eliminated:

1) termination of the certificate in respect of which the contract is concluded, but there is the possibility of its recovery;

2) obligations taken on previously signed contracts that prevent submission of licenses for the use of industrial property item;

3) provisions in the contract that are contrary to the civil legislation of the Republic of Kazakhstan and the ratified international agreements;

4) incomplete set of documents or documents submitted do not meet the requirements of current legislation of the Republic of Kazakhstan.

7. In case of violation of the requirements for registration of documents or the presence of the grounds specified in paragraph 5 of this article prevent registration of the contract, but that can

be eliminated, expert organization sent a request to the applicant with a proposal within three months from the sending date to submit missing or corrected documents or make the necessary changes and additions. In this case, terms of the examination referred to in paragraph 4

denomination in the country of origin. The owner of an exclusive right to use the name of the place of origin may be a person whose right to such names is protected in the country of

3. Any interested person may on grounds specified in paragraphs 1 and 2 of this Article shall apply to the authorized body objection to registration of appellation of origin and (or) the right to use the appellation of origin.

The objection must be considered in the manner and term prescribed by paragraph 2 of Article 23 of this Act. ";

20) Article 41 shall be amended as follows:

"Article 41. Appellate Council

1. The Appellate Council shall be a special structural subdivision of the authorized body for the pre-court consideration of disputes with respect to objections raised 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 Act. Provisions of Appellate Council are approved by authorized body.

2. The following objections may be filed to the Appellate Council:

1) the decision of the authorized body (the conclusion of the expert organization) to refuse to register a trademark, including the refusal to register a trademark made on the results of the examination of declared designation, in accordance with paragraphs 1 and 2 of Article 5 of the Madrid Agreement;

2) the decision of the authorized authority to refuse registration of (or) the right to use the appellation of origin;

3) to the registration of a trademark, including in accordance with paragraph 6 of Article 5 of the Madrid Agreement;

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

5) to the registration of a trademark due to its disuse.

The objection provided by subparagraph 1) 2) of this paragraph, is supplied by the applicant or his successor, either directly or through a representative.

The objection provided by subparagraph 3) -5) of this paragraph is supplied by any interested person, either directly through a representative.

Objection is submitted to the authorized body in Kazakh and Russian, either directly or by mail. The materials attached to the objection are submitted in Kazakh and Russian. If the attached materials are in another language, its translation into Kazakh and Russian is attached to the objection.

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

The objection is filed with the terms established by this Law.

Missed deadline for objections by the applicant provided by subparagraph 1) and 2) of this paragraph may be reinstated at the presence of cause and the document on payment of the missed deadline recovery. The petition for reinstatement of missed deadline may be filed by the applicant from the date of expiry of the missed deadline. The application shall be submitted simultaneously with an objection to the Appellate Council.

3. In the case of filing of objection by patent agent or other representative a power of attorney is filed in Kazakh and Russian, if the a power of attorney is filed in other (foreign) language, power of attorney must be translated into Kazakh and Russian, the translation of a power of attorney is notarized. The original of notarized power of attorney is attached to the objections materials or it is filed with a copy to the Secretary of the Appellate Council to confirm notarization.

4. Filed objection shall be considered at the board meeting of the Appellate Council within the term prescribed by this Law. Review term may be extended at the request of the person who filed the objection and the owner of the protection document, but not more than for six months from the date of expiry of the deadline for the consideration of objections.

5. A person filed an objection, the owner of the trademark or the right to use the appellation of origin has the right to appeal against the decision of the Appellate Council within six months from the date of the decision.

21) add articles 41-1 and 41-2 as follows:

"Article 41-1. Grounds for refusal to consider objections to the Appellate Council
Acceptance of objection to the consideration shall be refused if:

- 1) an objection shall not be justiciable in the Appellate Council;
- 2) an objection is not signed or signed by a person not having authority to sign it;
- 3) an objection is filed with the violation of the specified term and the possibility of renewal and restoration of this period has been lost;
- 4) the applicant within the prescribed pe

22) add the second part of Article 45 after the words "examination" with the words "of trademarks, service marks, appellations of origin examination of assignment agreement on trademark or license agreements (sublicense agreement)";

23) Article 46 shall be amended as follows:

"Article 46. Patent agents

1. A voting citizen of the Republic of Kazakhstan who permanently resides in its territory, with higher education and work experience in the field of intellectual property not less than four years, vetted and registered by the authorized body in the field of intellectual property may be a patent agent.

rights of the interested person without a patent agent, specifying an address for the letter exchange within the Republic of Kazakhstan.

5. Information which a patent agent receives from the trustor due to the performance of his instructions shall be recognized as confidential by compliance with the requirements applicable by the legislative acts of the Republic of Kazakhstan to confidential information or other secrets protected by the law. ";

3. In the cases specified in subparagraphs 1), 2) and 3) of paragraph 1 of this article, evidence of a patent agent is revoked by the decision of the certification commission based on the application of the patent agent or the third party with foundation.

Patent agent, 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 agent without re-passing a qualifying examination, in case of the termination of reasons that led to exclusion from the registry, and application to the Certification Commission within three years from the date of publication of the decision to remove from the registry. Certification Commission according to the documents submitted establishes the fact of termination of the grounds specified in subparagraphs 1) and 2) of paragraph 1 of this article.

4. Patent agent, excluded from the register of patent agents, loses the right to pursue activities of a patent agent from the date of entering data on this, and a certificate of his registration as a patent agent is revoked or canceled.

5. In the case of dishonest performance by a patent agent of his duties, prescribed by this Law, the authorized body forms the Appellate Commission, which shall consist of an odd number of members of the authorized body.

The Appellate Commission is a collegial body, and investigates complaints of physical and (or) legal entities representing the actions of the rights and legitimate interests of patent agents,

2. In the case of exclusion of patent agent from the register of patent agents on the grounds specified in subparagraphs 4), 5) and 6) of paragraph 1 of this Article, the certificate is canceled by the decision of certification commission. Information about the cancellation of the certificate shall be entered in the register of patent agents.

3. In the cases specified in subparagraphs 1), 2) and 3) of paragraph 1 of this article, evidence of a patent agent is revoked by the decision of certification commission based on the application of the patent agent or the third party with foundation.

Patent agent, 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 agent without re-passing a qualifying examination, in case of the termination of reasons that led to exclusion from the registry, and application to the Certification Commission within three years from the date of publication of the decision to remove from the registry. Certification Commission according to the documents submitted establishes the fact of termination of the grounds specified in subparagraphs 1) and 2) of paragraph 1 of this article.

4. Patent agent, excluded from the register of patent agents, loses the right to pursue activities of a patent agent from the date of entering into this, and a certificate of his registration as a patent agent is revoked or canceled.

5. In the case of dishonest performance by a patent agent of his duties, prescribed by this Law, the authorized body forms the Appellate Commission, which shall consist of an odd number of members of the authorized body.

The Appellate Commission is a collegial body, and investigates complaints of physical and (or) legal entities representing the actions of the rights and legitimate interests of patent agents, committed, according to them, in violation of applicable legislation.

Individuals filed complaints against a patent agent and a patent agent, relating to whom complaints are filed, have a right to participate at the meeting of the Appellate Commission.

As a result of a complaint Appellate Commission recommends the authorized body to refer to court a lawsuit to annul a certificate of patent agent or makes one of the following decisions:

- 1) to postpone consideration of the complaint due to lack of evidence or to clarify the circumstances that contribute to making objective decisions;
- 2) to dismiss the complaint.

Decision of appellate commission is made by simple majority vote and registered in the minutes. Decision of appellate commission may be appealed in court.

The regulation of the appellate commission is established by the authorized body. "

13. The Law of the Republic of Kazakhstan dated December 15, 2006 "On Culture" (Official Gazette of the Parliament of the Republic of Kazakhstan, 2006, 24, art. 147; 2008, 23, Art. 124; 2010, 5, Art. 23; 10, art. 49; 15, art. 71; 24, art. 149; 2011, 5, Art. 43; 11, art. 102):

Add Article 7 with subparagraph 35-1) as follows:

"35-1) agrees or refuses to agree on designs, which are part of history and culture of the Republic of Kazakhstan, for use them as a trademark and service mark of individuals or legal entities engaged in entrepreneurial activity."

14. The Law of the Republic of Kazakhstan dated January 11, 2007 "On Information" (Bulletin of the Parliament of the Republic of Kazakhstan, 2007, 2, Art. 13, 2009, 15-16, Art. 74; 18, art. 84; 2010, 5, Art. 23; 17-18, Art. 111; 2011, 1, Art. 2; 11, art. 102; The Law of the Republic of Kazakhstan dated July 21, 2011 "On Amendments and addenda to some legislative acts of the Republic of Kazakhstan on public service centers" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated August 6, 2011): paragraph 3 of Article 2 shall be deleted.

Article 2. This Act shall come into force after ten calendar days after its first publication.

President of
the Republic of Kazakhstan

Nursultan Nazarbayev