

## ARTICLE

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### How to obtain a patent in Kazakhstan

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Patenting gives the right to prohibit others from using your invention. The patent protects it and gives the owner exclusive rights to use it for a certain period of time.

#### Choosing the type of a patent and the period of the desired protection

Various items of industrial property are protected in Kazakhstan, several types of patents are granted. So, if your invention contains a technical solution, then it can be protected as an invention or as an utility model. If the invention refers to the appearance (design) of the product, then in this case it can be protected as an industrial design.

A patent for an invention is valid for 20 years from the date of filing an application. With regard to an invention relating to a medical product, a pesticide (pesticide) where it is required to obtain permits for its application in accordance with the procedure established by the legislation of the Republic of Kazakhstan on permits and notifications, the period of validity of the exclusive right and the patent certifying this right may be extended at the request of the patent holder, but not more than for 5 (five) years.

A patent for an invention is issued after a formal examination and substantive examination of the application for compliance with the conditions of patentability “industrial applicability”, “world novelty” and

“inventive step”.

As an invention, technical solutions in any field relating to a product (device, substance, strain of a microorganism, a culture of plant cells or animals) are protected, a method (the process of carrying out actions on a material object by means of material means), as well as the application of a known product or method according to a new use or a new product for a specific purpose.

The patent for utility model in the Republic of Kazakhstan is valid for 5 years with the possibility of extension for up to 3 years (total: 8 years) subject to payment for maintaining the patent in force. A patent for a utility model is issued without verification of compliance with the terms of patentability “world novelty” and “industrial applicability” for the risk and liability of the applicant in respect of above conditions.

As a useful model, technical solutions in any field relating to the product (device, substance, strain of the microorganism, a culture of plant cells or animals) are protected, the method (the process of performing actions on the material object with the help of material means), as well as the application of a known product or method for a new purpose or a new product for a specific purpose, with the exception of diagnostic, therapeutic and surgical methods for treating humans or animals.

A patent for an invention and utility model can be obtained for several variants of a technical solution, connected among themselves by a single inventive concept.

It should be understood that not every invention can be patented in the form of an invention or utility model.

So, they are not recognized as inventions and useful models:

- discoveries, scientific theories and mathematical methods;
- methods of organization and management of the economy;
- symbols, schedules, rules;
- rules and methods of performing mental operations, games;
- programs for computers and algorithms as such;
- projects and layout plans for structures, buildings, territories;
- proposals relating only to the appearance of products;
- proposals that are contrary to public order, the principles of

humanity and morality.<

A patent for an industrial design is valid for 15 years from the date of filing an application and can be renewed, but not more than for five (5) years (in total 20 years). A patent for an industrial design is issued after a formal examination and the substantive examination of the application for compliance with the conditions of patentability “world novelty” and “originality”. A patent for an industrial design can be obtained for several options of an artistic and design decision, related to each other by a common creative idea.

It should be understood that not every design solution can be patented as an industrial design.

So, solutions are not recognized by industrial samples:

- caused solely by the technical function of the products;  
objects of architecture (except for small architectural forms), industrial, hydraulic engineering and other stationary structures;
- objects of unstable form from liquid, gaseous, loose or similar substances;
- products that are contrary to public order, the principles of humanity and morality.

### **Preparing documents for filing an application for a patent**

When the type of possible and desired protection for the filing of an application is determined, it shall be necessary to collect and submit the following information and documents:

#### To apply for an invention/utility model

- Information about the applicant:
  - a) the full name of the applicant with an indication of the organizational and legal form; for an individual - full name, first name and patronymic; b) the legal address of the applicant; for an individual - the address of permanent residence; c) a copy of the certificate of state (re) registration of the applicant (for a legal entity);

- Information about the authors:
  - a) full name, first name and patronymic; b) the address of permanent residence.
- Description of the invention/utility model;
- The formula of the invention/utility model;
- Drawings and other graphic materials (if any);
- Abstract.

#### To apply for an industrial design

- Information about the applicant:
  - a) the full name of the applicant with an indication of the organizational and legal form;
  - b) the legal address of the applicant.
- Information about the author (authors) - full name, first name, middle name and address of residence.
- A set of images of an industrial design, namely: a) general view of 3/4 industrial design (8 copies); b) other species (left, right, rear, top) - 4 copies of each species. A set of images or photographs is presented for each option.
- Description with a list of essential features of an industrial design.
- A photo of a prototype of an industrial design, if available.

#### **Payment and filing of documents**

It is necessary to pay the official fee for filing of an application and attach a receipt for this payment. For applications for invention and industrial design, it is also necessary to pay for the NIIS service for carrying out substantive examination. It should be noted that the amount of payment for examination depends on the number of independent claims and the number of industrial designs in one application.

Having collected all the documents, it is necessary to fill out the application (the forms are provided in the NIIS) and file it with NIIS.

#### **Obtaining a patent**

As practice shows, the procedure for obtaining patents is carried out in the

following terms.

For inventions

After submitting an application to NIIS, after about 2 months, in case of successful passing of formal examination, the applicant is notified of its completion. Then, based on the results of the substantive examination, approximately after 12-14 months the date of payment for the examination for substantive examination and in cases of its successful passage, experts forward an expert opinion on the grant of a patent for an invention. After that it is necessary to make payment for the issuance of a patent. Then, after 2 to 3 months from the date of payment for the grant of a patent, a patent is issued for an invention that is valid for 20 years from the date of filing the application, subject to payment of annual fees for maintaining it in force.

For useful models. After filing an application with the NIIS, after about 10-12 months, in case of successful examination, the applicant is forwarded an expert opinion on the grant of a patent for a utility model. After that it is necessary to make payment for the issuance of a patent. Then, after 2 to 3 months from the payment date, a patent for a utility model is issued, valid for 5 years from the date of filing the application, subject to annual fees for maintaining it in effect. The term of the patent for the utility model can be extended at the request of the patent holder for another three years.

For industrial designs.

After filing an application with the NIIS, after about 2 months, in case of successful passing of formal examination, the applicant is notified of its completion. Then, based on the results of the substantive examination, about 12 months after the date of payment for the examination on the merits, in case of its successful passage, experts forward an expert opinion on the grant of a patent for an industrial design. After that it is necessary to make payment for the issuance of a patent. Further, after 2 to 3 months from the date of payment for issuance, a patent for an industrial design is issued, valid for 15 years from the date of filing the application, subject to annual fees for maintaining the patent in force. The validity of a patent for an industrial design can be extended at the request of the patent holder for another 5 years.

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