

**Law of the Republic of Kazakhstan dated July 26, 1999 No. 456-I  
On trademarks, service marks and appellations of origin  
(as amended *as of 07.04.2015*)**

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

### **Chapter 1. General Provisions**

*Article 1 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision); is set out as amended by the RK [Law](#) dated 12.01.12 No. 537-IV (see earlier revision); is amended in accordance with the RK [Law](#) dated 10.07.12 No. 34-V (see earlier revision).*

#### **Article 1. Basic definitions used in this Law**

The following basic definitions shall be used in this Law:

- 1) exclusive right – property owner's right to use of the trademark or the appellation of origin in any manner in its sole discretion;

*Article is supplemented with subparagraphs 1-1 - 1-3 in accordance with the RK [Law](#) dated 07.04.15 No. 300-V*

- 1-1) **Confusingly similar marks** - similar marks or labels having differences of separate elements and being perceived associatively by the consumer as identical;
- 1-2) **Identical trademarks** – marks or designations/labels coinciding in all elements;
- 1-3) **Homogeneous goods and services** – goods and services, which perform a single function, relate to a single sort (kind) and when using identical or similar marks on goods can give a consumer's idea of their belonging to a single producer;
- 2) **Bulletin** - the official periodical publication for the issues of protection of trademarks and appellations of origin;

*Subparagraph 3 is amended in accordance with the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision);*

- 3) **Geographical indication** - an indication that identifies a product as originating from a specific territory, region or locality;
- 4) **Well-known trademark** - designation used as a trademark or a trademark, which is recognized as well-known by virtue of international agreements, the party to which is the Republic of Kazakhstan, and by the decision of authorized body or court that's is based on evidence of concerned parties;
- 4-1) **Madrid Agreement** - [Madrid Agreement](#) Concerning the International Registration of Marks dated April 14, 1891;
- 5) **Applicant** - a legal entity or individual, who submits an application for trademark registration or registration and granting the right to use the appellation of origin;
- 6) **Patent agents** – the citizens of the Republic of Kazakhstan, who have the right to represent the individuals and legal entities to the authorized body and the expert organization in accordance with the legislation of the Republic of Kazakhstan;

*Article is supplemented with subparagraph 6-1 in accordance with the RK [Law](#) dated 07.04.15 No. 300-V*

- 6-1) **Singapore Treaty** - [Singapore Treaty](#) on the Law of Trademarks dated March 27, 2006;
- 7) **International classification of goods and services** - classification, adopted by the [Nice agreement](#) dated June 15, 1957 with the subsequent amendments and supplements;
- 8) **Trademark, service mark (hereinafter referred to as the trademark)** - indication, registered in accordance with this Law or protected without the registration in virtue of the international treaties, the

participant to which is the Republic of Kazakhstan, which serves to distinguish the goods (services) of one legal entities or individuals from similar goods (services) of other legal entities or individuals;

*Subparagraph 9 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

- 9) **Use of a trademark or an appellation of origin** - use of a trademark or an appellation of origin on the goods and in the provision of services, in respect of which they are protected, and (or) their packaging, manufacture, use, importation, storage, offering for sale, sale of goods with the designation of a trademark or an appellation of origin, use in signage, advertising, printed materials or other business documents, as well as any other forms putting them into civil circulation;

*Subparagraph 10 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

- 10) **Owner of the trademark or the right to use the appellation of origin** - a legal entity or an individual, having the exclusive right to the trademark or the exclusive right to use the appellation of origin in accordance with this Law;

*Subparagraph 11 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

- 11) **Appellation of origin** - indication, that represents or contains the name of a country, region, town, locality or other geographical indication, as well as an indication, derivative of such name and became known as a result of its use in relation to the goods, special features, quality, reputation or other characteristics, which are mainly related to its geographical origin, including distinctive natural conditions and (or) human factors;

- 12) **Collective trademark** - trademark of the association (union) or other association of legal entities and (or) individual entrepreneurs (hereinafter referred to as the association) that is used to indicate the manufactured or sold goods (services) that have the common qualitative or other characteristics.

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

*Paragraph 1 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

1. The legislation of the Republic of Kazakhstan on trademarks, service marks and appellations of origin consists of the [Civil Code](#) of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

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

*Article 3 is set out as amended by the RK [Law dated 09.07.04 No. 586-II](#) (see earlier revision);*

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

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

2. The following shall fall within the competence of the authorized body:

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

*Subparagraph 2 is set out as amended by the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision);*

2) registration of trademarks and appellations of origin;

*Paragraph is supplemented with subparagraph 2-1 in accordance with the RK [Law dated 02.03.07 No. 237-III](#)*

2-1) determining the **order** of recognition of the trademark as well-known;

*Paragraph is supplemented with subparagraph 2-2 in accordance with the RK [Law dated 02.03.07 No. 237-III](#)*

2-2) determining the order of the registration of appellation of origin and/or the granting of right to use appellation of origin;

*Paragraph is supplemented with subparagraph 2-3 in accordance with the RK [Law dated 12.01.12 No. 537-IV](#)*

2-3) approving a form of application for registration of Agreement on Trademark Right Transfer;

*Paragraph is supplemented with subparagraph 2-4 in accordance with the RK [Law dated 12.01.12 No. 537-IV](#); is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision).*

2-4) approving a form of application for registration of license agreement, sublicense agreement for use of trademark, franchise agreement and pledge agreement;

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

4) drawing up protocols and considering any cases on administrative violations, imposition of administrative penalties;

*Subparagraph 5 is set out as amended by the RK [Law dated 05.07.11 No. 452-IV](#) (is put into effect upon expiration of three months after its first official **publication**) (see earlier revision);*

5) exercise of other authorities provided for by this Law, other laws of the Republic of Kazakhstan and acts of the President and Government of the Republic of Kazakhstan.

*The Law is supplemented with Article 3-1 in accordance with the RK [Law](#) dated 09.07.04 No. 586-II; is amended in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV (see earlier revision); is set out as amended by the RK [Law](#) dated 10.07.12 No. 34-V(see earlier revision)*

### **Article 3-1. State monopoly in the sphere of protection of trademarks, service marks, appellations of origin**

*Paragraph 1 is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

1. The activities on the acceptance and expert examination of application for registration of trademarks, service marks and appellations of origin, expert examination of agreements on trademark, service mark right transfer, license (sublicense) agreements, on the maintenance of state registers of protected trademarks, service marks and appellations of origin, including the acceptance of application for registration of collective trademark; conducting examination as to form; introduction of amendments to application materials; classification of trademark application at the initiative of applicant; conversion of the application into the collective trademark and vice versa; acceptance of international application in accordance with the Madrid Agreement; preparation of a list of goods and services in accordance with the International Classification of Goods and Services; sending, executing an application for amending international application; expert examination of application additionally for each class over three; prompt and accelerated conduction of complete expert examination no less than six months from the date of application submission; consideration of objections to the decision on preliminary refusal to register; extension of a period of limitation for the filing of exception to the expert's decision for each month; extension of a period of inquiry answer for each month; revival of an expired period of limitation of inquiry answer, payment, filing of exception by the applicant; publication of registration information; introduction of amendments to state registers of protected trademarks, service marks, appellations of origin; extension of the validity of the registration of the right to use appellation of origin, trademark registration and additionally for each class over three; publication of extension information; conducting expert examination of pledged agreement, franchise agreement concerning one or group of industrial properties; expert examination of additional agreements and publication of agreement registration information; issue of the extracts from the state register and of the certificates; preliminary search of the designation in trademark database and designations applied for registration concerning specified classes of goods and services with the submission of search report; implementation and publication of print and electronic media, relate to the [state monopoly](#) and shall be carried out by expert organization founded by the decision of the Government of the Republic of Kazakhstan in a legal organizational form of Republican state enterprise with the right of economic management.

2. The following shall relate to the activities connected with the expert organization activities:

- 1) notarization of a copy of application (priority document);
- 2) re-offset and confirmation of payments.

*Paragraph 3 is amended in accordance with the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

3. [Prices for goods \(works, services\) produced and/or sold by an entity of state monopoly](#) shall be fixed by the authorized body as agreed with the anti-monopoly authority.

## **Chapter 2. Legal protection of and conditions for registration of a trademark**

### **Article 4. Legal protection of trademarks**

1. Legal protection of trademarks in the Republic of Kazakhstan is available on the basis of their registration in the manner prescribed by this Law, and without registration, as protected by virtue of [international treaties](#) of the Republic of Kazakhstan.

*Paragraph 2 is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

2. Legal protection of trademarks shall be provided to the individuals and legal entities.

*Paragraph 3 is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

3. The right to a trademark shall be certified by a record on registration in the State Register of Trademarks of the Republic of Kazakhstan and be confirmed by the extract from the State Register of Trademarks of the Republic of Kazakhstan.

4. The owner of a trademark has the exclusive right to use and possess the trademark in relation to goods and services specified in the certificate. No one may, without the owner's permission, use the trademark protected in the Republic of Kazakhstan.

### **Article 5. Designations registered as a trademark**

1. Visual, verbal, letter, numerical, three-dimensional and other signs or combinations thereof serving to distinguish goods and services of one person from the goods or services of other persons may be registered as a trademark.

*See.: [Information Letter](#) of the National Patent Office under the Cabinet Council of the Republic of Kazakhstan dated January 19, 1995 No. 95.*

2. A trademark may be registered in any color or color combination.

## **Article 6. Absolute grounds for denial of registration of a trademark**

*Paragraph 1 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II \(see earlier revision\)](#)*

1. It is not allowed to register the trademarks consisting exclusively of designations that are not distinctive:

*Subparagraph 1 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#)*

- 1) which have become a commonplace name as designating a certain kind of goods (services);
- 2) which are generally accepted symbols and terms;
- 3) which indicate the kind, quality, quantity, properties, purpose, value of goods, as well as the place and time of their manufacture or sale;

*Paragraph is supplemented with subparagraph 3-1 in accordance with the RK [Law dated 07.04.15 No. 300-V](#)*

- 3-1) which represent international unpatentable names of drugs;
- 4) is excluded in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)
- 5) is excluded in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)

*Paragraph is supplemented with subparagraph 6 in accordance with the RK [Law dated 09.07.04 No. 586](#); is amended in accordance with the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#).*

- 6) which have direct descriptive connection with goods and services, for designation of which they are used;
- 7) - 13) are excluded in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)

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

*Paragraph 2 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II \(see earlier revision\)](#)*

2. The designations shall not be registered as trademarks that reproduce the state armorial bearings, flags, emblems, abbreviated or full names of international organizations and their armorial bearings, flags and emblems, official control, guarantee and assay marks, seals, Olympic symbols, awards and other distinctions and designations confusingly similar thereto.

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

4. Registration of the following designations as trademarks and as elements thereof shall not be allowed:

*Subparagraph 1 is amended in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)*

1) which are misleading or capable of confusing regarding the goods or its manufacturer, including the names of geographic locations that can be misleading with respect to the place of manufacture of the goods;

2) formally indicating the true place of production, but giving a wrong impression that the goods originate from another territory;

*Subparagraph 3 is amended in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)*

3) representing or containing geographical indications identifying mineral waters, wines or high-proof spirits, to designate such products not originating from that place, and if the translation or designation is accompanied by expressions such as "kind of", "type of" "in the style of" or the like;

4) which are contrary to the public interest, principles of humanity and morality as follows from their content.

## **Article 7. Other grounds for denial of registration of a trademark**

*Paragraph 1 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#)*

1. Registration of designations as trademarks shall not be allowed that are identical or confusingly similar to:

*Subparagraph 1 is set out as amended by the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#)*

1) trademarks, registered in the Republic of Kazakhstan and protected under international agreements with an earlier priority in the name of another person in respect of similar goods or services, or to the identical trademarks of the same person in respect of the same goods or services;

*Subparagraph 2 is amended in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)*

2) well-known trademarks recognized in the Republic of Kazakhstan in respect of all types of goods and services;

*Subparagraph 3 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II \(see earlier revision\)](#); is set out as amended by the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#)*

3) designations applied for registration with an earlier priority in the name of another person in respect of similar goods or services or to the identical designations of the same person in respect of the same goods or services;

4) is excluded in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)

*Subparagraph 5 is amended in accordance with the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)*

5) appellations of origin protected in the Republic of Kazakhstan in relation to any goods, except in cases where they may be included as unprotected elements of a trademark registered in the name of the owner of the right to use this appellation of origin, if the registration of a trademark is carried out in respect of the same goods, for the individualization of which the appellation of origin was registered;

Registration of a designation confusingly similar to the trademarks and designations referred to in subparagraphs 1), 2) and 3) of the first part of this paragraph shall be allowed in case of consent given by the trademark owner.

2. The following designations shall not be registered as trademarks that reproduce or imitate:

1) industrial designs protected in the Republic of Kazakhstan, in the name of other persons on the condition of their earlier priority;

2) is excluded in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#))  
*Subparagraph 3 is set out as amended by the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#)); is amended in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV ([see earlier revision](#)).*

3) the names of works of literature, science and art, famous works of art and their fragments known in the Republic of Kazakhstan on the date of application - to the detriment of the copyright;

4) the surnames, first names, pseudonyms and derivatives thereof, portraits and facsimiles in violation of the moral non-property rights of these persons, their heirs or assigns, and if these designations are the property of history and culture of the Republic of Kazakhstan - without the permission of the competent authority.

#### **Article 8. Submission of an application**

*Paragraph 1 is set out as amended by the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#)); RK [Law](#) dated 07.04.15 No. 300-V ([see earlier revision](#))*

1. The application for a trademark shall be submitted by one applicant.

*Paragraph 2 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#))*

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

*Article 8 is supplemented with paragraph 3 in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV*

3. The application may be submitted as an electronic document, certified by the digital signature.

*See: [Regulation](#) of the Committee for the intellectual property rights and the state registration and granting of rights for industrial properties*

*The heading is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#)); is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V ([see earlier revision](#))*

#### **Article 9. Requirements to the application for registration of a trademark**

1. The application shall refer to one trademark.

2. The application shall be submitted on a standard form and contain the following:

*Subparagraph 1 is set out as amended by the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#)); is amended in accordance with the RK [Law](#) dated 07.04.15 No. 300-V ([see earlier revision](#)).*

1) request for expert examination of designation with the indication of the applicant and his/ her location or residence;

2) the designation applied for;

*Subparagraph 3 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#));*

2) the list of goods and (or) services according to the International [Classification](#) of Goods and Services.

3. The application shall be accompanied with:

*Subparagraph 1 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#));*

1) the document confirming the payment of examination services to the expert organization. The amount of payment shall be established in accordance with the legislation of the Republic of Kazakhstan;

2) the power of attorney, in case of records management through a representative;

*Paragraph is supplemented with subparagraph 3 in accordance with the RK [Law](#) dated 09.07.04 No. 586-II*

3) the charter of the collective trademark (in case of an application for a collective trademark), which includes the name of the organization authorized to register the collective mark in its name, the purpose of registration of the trademark, the list of entities having the right to use this trademark, the list and uniform properties or other characteristics of goods and services, which will be designated by the collective trademark, the conditions of its use, the procedure of control over its use, the responsibility for violation of the provisions of the collective trademark.

*Paragraph 4 is amended in accordance with the RK [Law](#) dated 07.04.15 No. 300-V ([see earlier revision](#))*

4. The application and documents attached thereto shall be submitted in the Kazakh or Russian languages. If the documents are in another language, the applicant may submit their translation into Kazakh or Russian within the period of a month.

*Paragraph 5 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#))*

5. The application submission date shall be the date of receipt of the application by the expert organization, and the application shall meet the requirements of [paragraph 2](#) of this Article, if these documents are not submitted at the same time, then the application submission date shall be the date of receipt of the last of the documents submitted.

*Paragraph 6 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#)); is set out as amended by the RK [Law](#) dated 12.01.12 No. 537-IV ([see earlier revision](#))*

6. [The procedure for drawing up, processing and review of the application for a trademark](#) shall be established by the authorized body.

#### **Article 10. The trademark priority**

*Paragraph 1 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II ([see earlier revision](#))*

1. The priority of a trademark shall be established in accordance with the date of its submission to an expert organization.

*Paragraph 2 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#))*

2. The priority of a trademark may be established in accordance with the date of submission of the first application(s) for the trademark in a state party to the Paris [Convention](#) for the Protection of Industrial Property, as well as provided for in its international or regional organization (Convention priority), if the application to an expert organization was submitted within six months of the date specified. When requesting a convention priority, the applicant shall specify the number of his/ her/ its first application and the date and country of its submission and shall attach a certified copy of the first application.

*Paragraph 3 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#))*

3. The priority of a trademark placed on exhibits of officially recognized international exhibitions can be established in accordance with the date of the open display of the exhibit at the exhibition (exhibition priority), if the application for a trademark to the expert organization was submitted within six months from the date specified.

*Paragraph 4 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#))*

4. An applicant wishing to exercise the right of convention or exhibition priority shall indicate this and provide the relevant documents confirming the legality of such requirement when applying for a trademark or within two months from the date of receipt of his/ her/ its application by the expert organization.

*Paragraph 5 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#))*

5. In the event of dividing the application, the priority for each of the applications shall be established in accordance with the priority date of the first application.

The priority for the divisional applications shall be determined in accordance with the priority date of the initial application by the same applicant, and if there is the right to the earlier priority in accordance with the initial application, – then in accordance with the date of this priority if as of the date of submission of the divisional application the original application has not been withdrawn and is not deemed to be withdrawn and submission of the divisional application is carried out before the decision on the initial application.

*Article is supplemented with paragraph 6 in accordance with the RK [Law dated 09.07.04 No. 586-II](#); is set out as amended by the RK [Law dated 07.04.15 No. 300-V](#) ([see earlier revision](#))*

6. Multiple priority of the trademark with respect to different goods shall be established at the request of the applicant, if he/ she /it has multiple applications for one designation in respect of various goods.

### **Chapter 3. Trademark examination**

#### **Article 11. The order of trademark examination**

*Paragraph 1 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#))*

1. Examination of the application is carried out by the expert organization stage-by-stage:

*Subparagraph 1 is set out as amended by the RK [Law dated 12.01.12 No. 537-IV](#) ([see earlier revision](#)); RK [Law dated 07.04.15 No. 300-V](#) ([see earlier revision](#))*

1) preliminary examination is carried out within one month from the date of receipt of the application, during which the contents of the application, the availability of necessary documents are checked in accordance with the requirements set out in [Articles 5 and 9](#) of this Law. Following the results of examination, a notice on admitting the application to examination or records management termination shall be submitted to the applicant within the period of ten working days;

*Subparagraph 2 is set out as amended by the RK [Law dated 12.01.12 No. 537-IV](#) ([see earlier revision](#))*

2) complete examination is carried out within nine months from the date of filing of the application, during which the conformity of the claimed designation to the requirements set out in [Articles 6 and 7](#) of this Law, is checked;

*Paragraph is supplemented with subparagraph 3 in accordance with the RK [Law dated 07.04.15 No. 300-V](#)*

3) upon written request of the applicant, subject to additional payment, the examination of trademark application shall be carried out before the terms specified in subparagraph 2) of this paragraph, but no sooner than six months from the date of application submission.

*Paragraph 2 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#))*

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

If within the prescribed period the applicant fails to submit additional materials or request for extension of specified period, the records management shall be terminated and the application shall be deemed as withdrawn.

*Article 12 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) ([see earlier revision](#)); is set out as amended by the RK [Law dated 12.01.12 No. 537-IV](#) ([see earlier revision](#))*

#### **Article 12. Decisions made on the results of the examination**

*Paragraph 1 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) ([see earlier revision](#))*

1. Following the results of preliminary examination, within ten working days the applicant shall be notified of receipt of the application for review, indicating its appropriate number, establishing the date of filing and the date of priority or refusal to accept the application for review in the form of a reasoned opinion.

Within the period of ten working days the expert organization shall submit to the authorized body an expert opinion concerning registration, partial registration or refusal to register which is made following the results of complete examination. The expert opinion concerning preliminary refusal to register shall be delivered to the applicant within the period of ten working days.

2. The applicant shall be entitled, within the period of three months from the date of receipt by it of preliminary opinion of complete examination, to submit the reasoned objection, following the results of which examination the expert organization shall make final opinion within the period of three months from the date of objection receipt.

3. Following the results of complete examination, the authorized body shall make decision on trademark registration or refusal to register, within the period of fifteen working days. The decision on registration can refer to a list of goods and services or their part.

4. The decision on registration of the trademark before its entering into the State Register of Trademarks can be revised in connection with revelation of application with earlier priority.

*Paragraph 5 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

5. On the basis of the decision to register trademark made by the authorized body, within the period of three months from the date of receipt of notice on positive opinion of expert organization, the applicant shall pay the state duty for trademark registration and the expert organization's actions on publication of registration information.

If the applicant fails to submit documents of payment of the state duty for trademark registration and the expert organization's actions on publication of registration information, the trademark shall not be registered and the appropriate trademark application shall be deemed as withdrawn, and the records management on it shall be terminated.

6. In case of disagreement with the expert's opinion made in accordance with [paragraph 2\)](#) of this Article, the applicant can submit to the authorized body an objection to expert's opinion within the period of three months from the date of its delivery. The objection should be examined by the Appeal Board within four months from the date of its receipt.

#### **Article 13. Rights of the applicant**

The applicant has the right to:

- 1) withdraw the application at any stage of the examination;
- 2) take participation in examination of any issues arising when examining the application;
- 3) supplement, specify or amend the application materials without essential change of them before performance of complete examination;

*Article is supplemented with subparagraph 3-1 in accordance with the RK [Law dated 09.07.04 No. 586-II](#)*

3-1) apply for the division of the application at any stage of its consideration before completion of expert examination with the distribution of goods and services listed in the initial application, between the divided applications;

4) apply for an extension of the prescribed period for submission of the reply to the request or filing an objection, but for no more than for six months;

5) apply for restoration of the missed time limit, but not later than two months from the date of expiry of the missed time limit;

6) familiarize with opposed materials;

*Article is supplemented with subparagraphs 7 and 8 in accordance with the RK [Law dated 07.04.15 No. 300-V](#)*

7) apply for the suspension of processing of the application due to filing an objection to the Appeals Board;

8) apply for assignment of the right to obtain trademark, service mark to other person without agreement conclusion.

### **Chapter 4. Registration of a trademark**

*The list of documents submitted for trademark registration – see Response of the RK Minister of Justice dated April 22, 2010*

*Article 14 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) (see earlier revision); is set out as amended by the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

#### **Article 14. State Register of Trademarks**

1. The information on trademark registration shall be entered in the State Register when paying for the services of expert organization and the state duty for trademark registration.

The following information shall be entered in the State Register of Trademarks:

- 1) trademark image;
- 2) owners information;
- 3) number and date of trademark registration;
- 4) indication to the collective trademark;
- 5) the list of goods (services) in respect of which the trademark is registered;
- 6) the number and date of filing the application to the expert organization;
- 7) the country, number and date of filing of the first application, if convention priority is set;



8) other information related to the trademark registration, including information on transfer of the right for protected trademark.

2. The State Register of Trademarks is publicly available. At the request of concerned parties the expert organization provides an extract from the State Register of Trademarks.

3. The trademark owner must notify the expert organization on any changes concerning trademark registration, including information about changes in his/her surname, name and patronymic and in the place of residence or name and location, as well as on the reduction of the list of goods (services), in respect of which the trademark has been registered and doesn't change registration substantially.

4. Within the period of one month from the date of filling the application for amendment and appropriate payment, the expert organization shall introduce in the State Register the amendments specified in paragraph 3 of this Article, as well as the amendments to correct technical errors.

The notice on introduction of relevant amendments shall be delivered to the applicant within the period of two months from the date of introducing amendments in the State Register.

#### **Article 15. Validity of registration**

1. Registration of the trademark shall be valid within the period of ten years from the date of filing the application.

*Paragraph 2 is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

2. The validity of the trademark registration shall be extended each time for the period of ten years at the owner's request, filed during the last year of its validity. The information about the extension of registration validity shall be entered in the State Register of Trademarks.

3. The period for application submission, indicated in paragraph 2 of this Article may be reinstated at the owner's request, filed within six months after the expiry of the registration.

*Article 16 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision); RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

#### **Article 16. Publication of information on registration**

The information relating to the trademark registration recorded in the State Register of Trademarks, as well as the subsequent changes concerning the registration, shall be published by the expert organization in its bulletin and Internet resource within a period of two months directly after the date of its entry in the State Register of Trademarks.

The information on owners of collective trademark shall be added to the State Register of Trademarks.

*Article 17 is amended in accordance with the RK [Law](#) dated 02.03.07 No. 237-III (see earlier revision); RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

#### **Article 17. Conditions for re-registration of the trademark**

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

The specified condition shall be applied only in the case when the trademark owner waived the right to use this trademark before the expiry of the registration.

*Article 18 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision); is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

#### **Article 18. Extract from the State Register of Trademarks**

1. Extract from the State Register of Trademarks confirms the fact of trademark registration and priority, owner's exclusive right for trademark regarding goods (services) specified in the State Register of Trademarks.

2. The Extract Form shall be established by the authorized body.

*The Law is supplemented with the Article 18-1 in accordance with the RK [Law](#) dated 09.07.04 No. 586-II; is set out as amended by the RK [Law](#) dated 12.01.12 No. 537-IV (see earlier revision)*

#### **Article 18-1. Recognition of the trademark as well-known**

*Paragraph 1 is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

1. The well-known trademark in the Republic of Kazakhstan can be recognized the trademark registered in the territory of the Republic of Kazakhstan and protected in virtue of international agreements, as well as the designation used as a trademark without its legal protection in the Republic of Kazakhstan but gained general notoriety in the Republic of Kazakhstan.

The application for recognition of the trademark as well-known submitted by individuals and legal persons shall be considered by the Authorized Body Commission for recognition of trademark as well-known.

Within two months from the date of application submission, the authorized body shall check the availability of the required documents prescribed by the legislation of the Republic of Kazakhstan, inform the applicant of the acceptance of the application and publish the information about it on the Internet resource for review and submission of objections by third parties.

Upon expiration of three months from the date of information publication, the application and attached materials confirming trademark notoriety shall be considered by the authorized body. After expiration of the specified period the authorized body shall consider the application within the period of three months.

The applicant shall be entitled to introduce amendments, supplements and updates into application materials prior to making conclusions following the results of application consideration.

In case of disagreement of any third parties the applicant shall be provided with appropriate notice, the withdrawal for which the applicant shall submit prior to making conclusions following the results of application consideration.

The Regulations on Commission for recognition of trademark (service mark) as well-known in the Republic of Kazakhstan shall be approved by the authorized body.

Following the results of application consideration by the Authorized Body Commission, the decision on recognition of the trademark as well-known or the decision on refusal to such recognition shall be delivered to the trademark owner within the period of ten working days from the date of making such decision.

If actual data submitted by the applicant confirm the date when trademark became well-known other than the date specified in the application, the trademark can be recognized as well-known prior to the actual date.

The information on actual recognition of trademark as well-known shall be confirmed by the results of consumer inquiry that is conducted by the specialized independent organization in the territory of the Republic of Kazakhstan. The inquiry should cover the city of republican status, capital and not less than five cities of regional status. The total number of respondents in one human settlement should be no less than one hundred people.

The decision on refusal to recognize the trademark as well known shall be made if it has been established that:

- 1) information is not sufficient for recognition of trademark notoriety;
- 2) there is a trademark that is identical or confusingly similar to the applicant's trademark, or protected or applied in the name of other person regarding homogeneous goods, with more earlier priority than the date, from which the applicant requests to recognize the trademark as well known.

The decision of Authorized Body Commission specified in the Forth part of this paragraph can be appealed to a court.

2. The well-known trademark is granted with legal protection provided by this Law for the trademark.

3. The legal protection of well-known trademark shall be terminated:

- 1) due to expiration of registration validity;
- 2) due to entry of the court decision into legal force on cancellation of decision on recognition of trademark as well-known made by the Authorized Body Commission.

*Paragraph 4 is set out as amended by the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

4. Based on the recognition of designation or trademark as well-known specified in paragraph 1 of this Article, the following information shall be entered in the State Register of Trademarks of the Republic of Kazakhstan.

The validity of recognition of trademark as well-known upon the request of its owner and when submitting information confirming trademark notoriety shall be extended for the subsequent ten years period.

The information on well-known trademark registration, owner and subsequent changes concerning such registration shall be entered in the State Register of Well-known Trademarks and be published in bulletin.

*See. The [Rules for recognition of trademark \(service mark\) as well-known in the Republic of Kazakhstan](#)*

## **Chapter 5. Using the trademark**

### **Article 19. Terms of using trademarks**

1. The trademark owner shall be required to use the trademark.

2. Any entrepreneurs carrying out agency business shall be entitled, subject to manufacturer's consent, to use their trademark on goods sold by them along with the trademark of goods manufacturer, as well as to place it instead of the manufacturer's trademark.

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

*Paragraph 4 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) (see earlier revision); RK [Law dated 02.03.07 No. 237-III](#) (see earlier revision); RK [Law dated 12.01.12 No. 537-IV](#) (see earlier revision)*

4. Any concerned party can submit to the authorized body an objection against registration of trademark due to its continuous non-use within the period of three years from the date of registration or three years preceding the objection submission. The objection can relate all or partial goods specified in certificate and should be considered by the Appeal Board within the period of six months from the date of its receipt.

The evidence of using the trademark is considered to be its applying on the goods, for which it is registered, and/or on the package by the trademark owner or any person provided with this right on the basis of the Agreement on Trademark Right Transfer in accordance with [paragraph 2 of Article 21](#) of this Law. The use of trademark can be recognized as the manufacture, importation, storage, offering for sale, sale of goods with the designation of a trademark, use in advertising, signage, printed materials, official forms or other business documents, transfer of trademark right or when demonstrating goods in exhibitions conducted in the Republic of Kazakhstan, as well as any other forms putting them into civil circulation;

The evidence of using the trademark submitted by owner should relate to the period specified in the objection.

When making a decision on termination of the trademark registration due to non-use of this trademark, the evidence submitted by the owner that he/she did not use the trademark for reasons beyond his/her control shall be also considered.

*Paragraph 5 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) (see earlier revision)*

5. Is excluded in accordance with the RK [Law dated 12.01.12 No. 537-IV](#) (see earlier revision)

*Article is supplemented with paragraph 6 in accordance with the RK [Law dated 09.07.04 No. 586-II](#); is amended in accordance with the RK [Law dated 12.01.12 No. 537-IV](#) (see earlier revision)*

6. The owners of trademarks that are identical or confusingly similar to a well-known trademark and are registered before the official date of recognition of the trademark as well-known, shall retain the right to their further use within the period set out by the authorized body, but not more than seven years.

*Article is supplemented with paragraph 7 in accordance with the RK [Law dated 12.01.12 No. 537-IV](#); is set out as amended by the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

7. The use of this trademark by other persons in relation to goods, which have been put into civil circulation in the territory of the Member-States of the Eurasian Economic Union, directly by the owner of the trademark or upon his/her consent shall not be a violation of the exclusive right to trademark.

#### **Article 20. Warning marking**

The owner of the trademark certificate can place near the trademark a warning marking in a form of the Latin letter R, or verbal designations "тауар таңбасы", "trademark" or "registered trademark" indicating that the used designation is a trademark registered in the Republic of Kazakhstan.

*Article 21 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II](#) (see earlier revision); is set out as amended by the RK [Law dated 12.01.12 No. 537-IV](#) (see earlier revision)*

#### **Article 21. Transfer of a trademark right**

1. The exclusive right to a trademark concerning all goods and services or their parts specified in the certificate can be transferred by the owner to any other person under the Transfer Agreement.

The transfer of the trademark right is not allowed, if it can cause misleading in respect of goods or their manufacturer.

The transfer of the trademark right including its transfer under the Agreement or by way of succession should be registered in the authorized body.

2. The right to use trademark can be provided by the trademark owner (licensor) to other person (licensee) regarding the goods or services or their part under License Agreement, which are specified in the Certificate.

The License Agreement enabling the licensee to use trademark should contain the condition on that the quality of goods or services will be not lower than the quality of licensor's goods or services, and that the licensor is entitled to exercise control over fulfillment of this condition.

When terminating the trademark right the License Agreement shall be terminated.

The transfer of trademark right to other person doesn't entail termination of License Agreement.

*Paragraph 3 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V](#) (see earlier revision)*

3. The Agreement on Trademark Right Transfer, License Agreement, franchise agreement and trademark pledge agreement should be concluded in a written form and registered in the authorized body. Non-compliance with the written form and registration requirement entails invalidity of the agreement.

The Agreement on Trademark Right Transfer, License Agreement, franchise agreement and pledge agreement shall be registered following the results of materials examination conducted by the expert organization.

Unless otherwise provided for by the legislation of the Republic of Kazakhstan, the Regulations on License Agreement Registration shall apply to the procedure for registration of sublicense agreements, arrangements to registered agreements.

The application of prescribed form shall be submitted to the expert organization for registration of Agreement on Trademark Right Transfer, License Agreement, franchise agreement and pledge agreement.

The following shall be enclosed to the Application:

1) four original copies of the agreement, the subject of which are homogeneous industrial properties, provided with a front page. Each copy of the agreement shall be laced, attached with a paper seal indicating number of laced and numbered sheets and shall be affixed with seal and signatures of both parties or authorized persons of both parties.

The materials for License Agreements should be submitted no less than six months from the date of signing the agreement.

The notarized copies of agreements can be submitted instead of the original copies of the agreement;

3) Power of Attorney when submitting the Application through the patent agent or other representative;

4) document confirming the payment of state duty;

4) document confirming the payment of services to the expert organization.

The payment shall be made when submitting the application or within the period of one month from the date of receipt of application. The application shall be recognized as unfiled in case of failure to submit the payment document within the period of one month.

Under License Agreements, the national applicants shall submit, in addition to the above documents, the decision of management bodies of licensor (sublicensor) on the question of agreement conclusion and vesting the authority for signing the agreement by the head of enterprise in case of application submission on behalf of legal person.

Under Assignment Agreements, the national applicants shall submit, in addition to the above documents, the decision of the management bodies of owner of protection document or exclusive rights, and the decision of general meeting of founders or shareholders on the question of agreement conclusion and vesting the authority for signing the agreement by the head of enterprise.

The Application and other required documents shall be submitted in the Kazakh or Russian languages. Any foreign names and names of legal persons should be specified in Kazakh and Russian transliteration. If these documents are submitted in other languages the Application shall be enclosed with their notarized translation in the Kazakh or Russian languages.

The Application shall relate to a single Agreement on Trademark Right Transfer, License Agreement, franchise agreement, pledge agreement, additional agreement.

Any individuals residing outside the territory of the Republic of Kazakhstan or any foreign legal persons submitting agreement materials to the authorized body in their own name shall exercise the rights related to agreement registration through patent agents of the Republic of Kazakhstan.

The citizens of the Republic of Kazakhstan, who are temporarily outside its territory, shall exercise the rights related to agreement registration without the patent agent with the indication of address for correspondence within the limits of the Republic of Kazakhstan.

The Agreements on Right Transfer, the either party of which is the individual or legal person of foreign member state of the Singapore Treaty shall be examined and registered in accordance with the provisions of the Singapore Treaty.

4. After submitting by the Applicant of a list of documents for registration the expert organization, within the period of fifteen working days after the date of application receipt, shall conduct preliminary examination of received documents, in the course of which the availability of required documents and the compliance of their requirements is checked, and in case if the agreement materials attached to application doesn't contain the document confirming payment for examination conduction, an invoice shall be drawn to the applicant. In this case the specified terms shall be calculated from the date of payment receipt by the expert organization.

According to the materials of Agreement on Trademark Right Transfer accepted for consideration, within the period of twenty days, the substantial examination shall be conducted, in the course of which the materials of the Agreement on Trademark Right Transfer and License Agreement shall be examined in compliance with the applicable legislation of the Republic of Kazakhstan.

5. The grounds preventing registration of the Agreement on Trademark Right Transfer and License Agreement, which can be eliminated:

*Subparagraph 1 is amended in accordance with the RK Law dated 07.04.15 No. 300-V (see earlier revision)*

- 1) termination of registration of the trademark concerning which the agreement is concluded, but the possibility of its restoration exists;
- 2) availability of the obligations for earlier concluded agreements, which prevent submission of licenses to use industrial property;
- 3) availability of the agreement provisions contradicting the civil legislation of the Republic of Kazakhstan and the ratified international agreements;
- 4) submission of incomplete package of documents or the submitted documents don't comply with the requirements of the applicable legislation of the Republic of Kazakhstan.

6. In case of the violation of document execution requirements or the availability of any grounds specified in [paragraph 5](#) of this Article, which can prevent agreement registration or can be eliminated, the expert organization shall submit to the applicant a request with offer to submit missing or amended documents or to introduce required amendments and supplements within the period of three months from the date of its delivery. In this case the terms of substantial examination specified in [paragraph 4](#) of this Article shall be calculated from the date of submission of missing or amended documents.

7. In the presence of the following grounds the expert organization shall make conclusion on refusal to register the Agreement on Trademark Right Transfer and License Agreement;

*Subparagraph 1 is set out as amended by the RK Law dated 07.04.15 No. 300-V (see earlier revision)*

- 1) termination of registration of the trademark, concerning which the agreement is concluded, but the possibility of its restoration is not available;
- 2) failure to submit all required materials and information provided by paragraph 5 of this Article within the period of three months;
- 3) parties don't have the required rights for agreement conclusion;
- 4) License Agreement doesn't contain the licensee's authority for registration of sublicense agreement and the absence of License Agreement registered in authorized body.

The expert organization shall deliver to the authorized body this conclusion with indication of refusal reasons within the period of two working days.

8. In case of positive examination result the expert organization shall deliver to the authorized body the conclusion on absence of grounds preventing registration of the Agreement on Trademark Right Transfer and License Agreement within the period of five working days.

The decision on registration or refusal to register the Agreement on Trademark Right Transfer and License Agreement shall be accepted by the authorized body within the period of five working days from the date of receipt of expert organization's conclusion.

*Paragraph 9 is amended in accordance with the RK Law dated 07.04.15 No. 300-V (see earlier revision)*

9. After making decision on agreement registration the authorized body shall:

1) affix to a front page of agreement a stamp on its registration with indication of registration date and its registration number;

2) enter agreement information into the register of registered agreements;

3) deliver three copies of registered agreement to expert organization in order to publish information on agreement registration.

As to registered License Agreements, Agreements on Trademark Exclusive Right Transfer, franchise agreements and pledge agreements, the expert organization shall deliver two copies of registered agreement at the address for correspondence, specified in application and shall publish in bulletin the information on registered agreements, particularly a number and date of agreement registration, name and full details of contracting parties, subject of agreement, validity of agreement and validity area of agreement

Two copies of agreement shall be kept with the authorized body and expert organization correspondingly and are check copies.

Any person can receive the extract from the Register of the registered agreements open for release.

The familiarization of third parties with the agreement text, as well the receipt of extract is allowed only with the written consent of contracting parties.

If the authorized body makes the decision on refusal to register the Agreement on Trademark Right Transfer and License Agreement on the grounds of conclusions of expert organization, the documents on agreement under consideration along with the decision on refusal to register shall be returned at the address specified in the application.

*Paragraph 10 is amended in accordance with the RK Law dated 07.04.15 No. 300-V (see earlier revision)*

10. The Agreement on Trademark Right Transfer, License Agreement, franchise agreement and pledge agreement shall come into force from the date of their registration in the authorized body.

*Article 22 is amended in accordance with the RK Law dated 09.07.04 No. 586-II (see earlier revision)*

**Article 22. Transfer of the trademark right when re-organizing a legal entity by means of demerger**

When demerging the legal person the trademark rights shall be transferred to a new legal person, to which the production of goods and services is transferred.

In case if any new legal person preserves any part of production of goods and services, for which the trademark is registered, these new legal persons shall be recognized as joint owners of trademark in case of their consent.

## **Chapter 6. Termination of trademark registration**

**Article 23. Contestation of trademark registration**

1. The trademark registration can be contested and recognized as invalid completely or partially within the whole validity, if it was made in violation of requirement established by Articles [6 and 7](#), except for subparagraphs [1\)-3\) of par. 1 of Article 7](#) of this Law or within the period of five years from the date of trademark registration, if it was made in violation of requirement established by subparagraphs [1\) - 3\) of par. 1 of Article 7](#) of this Law.

*Paragraph 2 is amended in accordance with the RK Law dated 09.07.04 No. 586-II (see earlier revision)*

2. Any concerned party can submit to the authorized body an objection against trademark registration on the grounds specified in par. 1 of this Article.

The objection against trademark registration should be examined by the Appeals Board within the period of six months from the date of its receipt. The person submitted objection, as well the trademark owner shall be entitled to participate in dispute consideration.

**Article 24. Termination and invalidation of trademark registration**

1. The validity of trademark registration shall be terminated:

1) due to expiry of its validity specified in Article [15](#) of this Law;

*Subparagraph 2 is set out as amended by the RK Law dated 07.04.15 No. 300-V (see earlier revision)*

2) due to the termination of business activity or the death of individual and due to the liquidation of legal person – owner of trademark;

3) on the grounds of the written application on refusal to it submitted by the trademark owner;

4) in case of non-use of trademark in accordance with [paragraph 4 of Article 19](#) of this Law;

5) is excluded in accordance with the RK Law dated 12.01.12 No. 537-IV ([see earlier revision](#))

2. The trademark registration is recognized as invalid completely or partially by the decision of the Appeals Board or court under the grounds specified in [paragraph 1 of Article 23](#) of this Law.

*Paragraph 3 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision)*

3. The expert organization shall enter in the State Register of Trademarks a record on cancellation of the trademark registration in connection with its termination or recognizing it as invalid.

## **Chapter 7. Legal protection and terms of registration of appellation of origin**

### **Article 25. Legal protection of appellations of origin**

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

*Paragraph 2 is set out as amended by RK [Law](#) dated 07.04.2015 No. 300-V (see earlier revision)*

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

*Article 25 is supplemented with paragraph 3 in accordance with RK [Law](#) dated 12.01.2012 No. 537-IV; is set out as amended by RK [Law](#) of dated 07.04.2015 No. 300-V (see earlier revision)*

3. Registration of the appellation of geographical indication as an appellation of origin, which is located in a foreign country, shall be permitted, if the appellation of this area is protected as such appellation in the country of origin. The owner of the right to use the appellation of the mentioned place of origin may be only the entity, whose right to use such appellation is protected in the country of origin.

*Article 26 is set out as amended by RK [Law](#) dated 12.01.2012 No. 537-IV (see earlier revision)*

### **Article 26. Designations, registered as the appellations of origin**

1. The current or historical, official or unofficial, full or abbreviated name of a country, region, town, locality or other geographic area, as well as the derivative of such designation and their combinations with the specific appellation of goods may be registered as the appellation of origin.

2. The designations, representing or containing the appellation of geographical area, but which came to general use in the Republic of Kazakhstan as the designation of a certain kind of goods, not related to the place of its production, shall not be recognized as the appellation of origin.

### **Article 27. Designations, not registered as the appellations of origin**

The designations which

*Subparagraph 1 is set out as amended by RK [Law](#) dated 12.01.12, No. 537-IV (see earlier revision)*

- 1) represent the names of geographical area that can mislead as to the place of the goods production;
- 2) formally indicating to the true place of production, but giving a wrong impression that the goods come from another territory;

*Subparagraph 3 is set out as amended by RK [Law](#) of dated 12.01.12, No. 537-IV (see earlier revision)*

- 3) contain the names of geographical areas, not related to the production place.

*Article 28 is set out as amended by RK [Law](#) dated 09.07.2004, No. 586-II (see earlier revision)*

### **Article 28. Filing for registration of appellation of origin and granting the right to use the appellation of origin**

The application for registration of appellation of origin and granting the right to use the appellation of origin (hereinafter – the Application) shall be filed to the expert organization.

### **Article 29. Requirements to application**

1. The application shall relate to one appellation of origin.

2. The application shall be filed on a standard form and contain:

*Subparagraph 1 is set out as amended by RK [Law](#) dated 09.07.2004, No. 586-II (see earlier revision)*

- 1) the request for an examination of the name and (or) granting of the right to the name, indicating the applicant (s) and his (their) location or place of residence;
- 2) designation under the question;
- 3) type of the goods;
- 4) description of special properties of goods;
- 5) indication of the place of production of goods (boundaries of geographic area).

*Paragraph 3 is set out as amended by RK [Law](#) dated 09.07.2004, No. 586-II (see earlier revision); is set out as amended by RK [Law](#) dated 12.01.12, No. 537-IV (see earlier revision)*

3. If the geographic area, the name of which is claimed as the appellation of origin, is located on the territory of the Republic of Kazakhstan, the application for registration and (or) granting the right to use the appellation of origin shall be attached with the conclusion of the local executive body that within the boundaries of this geographic area the applicant produces goods, the special properties, quality, reputation or other characteristics of which are mainly determined by the environmental conditions and (or) human factors, specific for this geographic area.

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

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

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

The application shall be attached with the power of attorney in case of the office work through the representative.

*Paragraph 4 is set out as amended by RK [Law dated 07.04.2015, No. 300-V](#) ([see earlier revision](#))*

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

*Article is supplemented by the paragraph 5 in accordance with RK [Law dated 02.03.2007, No. 237 - III](#)*

5. The authorized body shall establish the requirements [to drafting, design and consideration of applications](#).

## Chapter 8. Examination of an appellation of origin

### Article 30. Examination procedure

*Paragraph 1 is set out as amended by RK [Law dated 09.07.2004, No. 586-II](#) ([see earlier revision](#))*

1. Within six months from the filing date the expert organization shall conduct an examination, which verifies its compliance with the requirements, specified in Articles [26](#), [27](#) and [29](#) hereof.

*Paragraph 2 is set out as amended by RK [Law dated 09.07.2004, No. 586-II](#) ([see earlier revision](#))*

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

If the applicant fails to submit additional materials or intercession for deadline prolongation within the prescribed period, the expert organization shall issue a notice of termination of procedures on the application or the withdrawing of the application, which can be contested in the appeal board within two months from the date of notice.

*See: [Regulation of the Committee on Intellectual Property Rights for the state registration and granting of rights for industrial property](#).*

*Article 31 is set out as amended by RK [Law dated 09.07.2004, No. 586-II](#) ([see earlier revision](#))*

### Article 31. Decisions on examination results

According to the examination results, the authorised body shall decide:

- 1) it is excluded by RK [Law](#) of dated 09.07.2004, No. 586-II ([see earlier revision](#))
- 2) on registration of the appellation of origin and (or) granting the right to use the appellation of origin;
- 3) on refusal to register the appellation of origin and (or) to grant the right to use the appellation of origin.

*Paragraph 2, is set out as amended by RK [Law dated 07.04.2015, No. 300 - V](#) ([see earlier revision](#))*

2. Within three months from the sending date of the decision on the refusal to register, the applicant shall be entitled to submit a reasoned objection and to request to revise the examination decision.

In case of disagreement with the repeated decision of the examination, the applicant may file an objection in accordance with [paragraph 6 of Article 12](#) hereof.

### Article 32. Applicant's rights

During the examination of the appellation of origin, the applicant shall be entitled according to the [Article 13](#) hereof.

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

*Article 33 is set out as amended by RK [Law dated 09.07.2004, No. 586 - II](#) ([see earlier revision](#))*

### Article 33. Order of State Register of Appellations of Origin

*Paragraph 1 is set out as amended by RK [Law dated 07.04.2015, No. 300 - V](#) ([see earlier revision](#))*

1. The expert organisation shall register the appellation of origin, number and date of registration, description of special properties of the goods, information about all owners of the right to use the appellation of origin, indicating their place of residence (location), number and date of application, and any subsequent changes, and any other information relating to the registration in the State Register of Appellations of Origin.

*Paragraph 2 is set out as amended by RK Law dated 07.04.2015, No. 300 - V (see earlier revision)*

2. The owner of the right to use the appellation of origin shall notify the expert organization on changes relating to the registration information. The expert organization shall make a record on the changes to the State Register of Appellations of Origin.

3. The State Register of Appellations of Origin shall be publicly available. According to the intercession of the interested persons, the expert organization shall provide an abstract from the State Register of Appellations of Origin.

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

1. The registration of appellation of origin shall be valid indefinitely, subject to the preservation of the special properties of the goods, produced in the territory of the specified geographical area.

*Paragraph 2 is set out as amended by RK Law dated 09.07.2004, No. 586 - II (see earlier revision)*

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

3. The validity period of the right to use the appellation of origin shall be prolonged each time for ten years at the owner's intercession, filed within the last year of validity, subject to the preservation of the special properties of the goods, in respect of which the appellation of origin is registered.

4. The intercession for the prolongation of the right to use the appellation of origin shall be submitted simultaneously with the conclusion of the authorized body in accordance with [the Article 29](#) hereof. The information about the prolongation of the registration validity period shall be recorded to the State Register of Appellations of Origin and to the certificate.

5. The deadline for intercession, stipulated in [the paragraph 3](#) hereof, shall be restored at the owner's application, filed within six months after the expiry of the registration validity.

*Article 35 is set out as amended by RK Law dated 09.07.2004, No. 586 - II (see earlier revision)*

#### **Article 35. Publishing of registration information**

The information, relating to the registration of appellation of origin and granting the right to use the appellation of origin, as well as the subsequent changes shall be published by the expert organization in the bulletin immediately after its recording to the State Register of Appellations of Origin.

*Article 36 is set out as amended by RK Law dated 07.04.2015, No. 300 - V (see earlier revision)*

#### **Article 36. Right to use the appellation of origin**

1. The extract from the State Register of Appellations of Origin shall confirm the registration of the appellation of origin and the exclusive right of the owner to use it in respect of the goods listed in the State Register of Appellations of Origin

2. The authorized body shall approve the form of extract document.

### **Chapter 10. Use of the Appellation of Origin**

#### **Article 37. Conditions Governing Use of the Appellation of Origin**

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

*Paragraph 2 is set out as amended by RK Law dated 12.01.2012, No. 537 - IV (see earlier revision)*

2. The geographical indication shall not be used without registration where it is identical with or confusingly similar to the appellation of origin that has been registered for homogeneous goods.

*Paragraph 3 is set out as amended by RK Law dated 12.01.2012, No. 537 - IV (see earlier revision)*

3. The appellations of origin shall not be used where they are or include geographical indications identifying mineral waters, wines or hard liquors, to designate such products not originating from this place even if the real place of origin is indicated or a translation is used or a designation is accompanied by such expression as "kind", "type" or "style" or something like that.

4. The alienation, other transactions concerning cession of the right to use an appellation of origin and the granting of the right to use the appellation of origin on the basis of a license agreement shall not be authorized.

#### **Article 38. Special Marking**

The owner of the right to use the appellation of origin may add alongside the appellation of origin a special marking by Latin letter ® or by verbal signs "тауар шығарылған жердің тіркелген атауы", "registered appellation of origin" or "reg. AO".

### **Chapter 11. Termination of the Legal Protection of the Appellation of Origin**



*Article 39 is set out as amended by RK [Law dated 09.07.2004, No. 586- II \(see earlier revision\)](#); as amended by RK [Law dated 12.01.2012, No. 537- IV \(see earlier revision\)](#)*

#### **Article 39. Contestation of the Appellation of Origin registration and (or) of granting of the right to use the Appellation of Origin**

1. The registration of the appellation of origin and (or) of the granting of right to use the appellation of origin may be contested and invalidated if the conditions specified in Articles [26, 27](#) and [29](#) hereof, were not met.

2. The registration of the appellation of origin and (or) of the granting of right to use the appellation of origin may be contested and invalidated within five years from the date of publication of information about state registration of the appellation of origin in an official bulletin if use of the appellation of origin can mislead or is capable of confusing the consumers in respect of the goods or its manufacturer due to the presence of the trademark that has an earlier priority, as well as widely known in the Republic of Kazakhstan, which was acquired as a result of active use.

3. Any person concerned may, on grounds specified in paragraphs 1 and 2 hereof, file an opposition to the Appeals Board against the registration of the appellation of origin and (or) of granting of the right to use the appellation of origin.

The objection must be examined in the manner and time prescribed by [the paragraph 2 of Article 23](#) hereof.

#### **Article 40. Termination of the registration of the Appellation of Origin and of the right to use the Appellation of Origin and their invalidation**

1. The registration of the appellation of origin shall cease to produce its effect:

1) where the factors characteristic of the geographical area in question are no longer present, making it impossible to manufacture a product with the properties specified in the State Register of Appellations of Origin for the appellation of origin in question;

2) in the event of the termination of the legal protection for the appellation of origin in the country of origin.

2. The validity of the right to use the appellation of origin shall terminate:

1) on the expiration of its term specified in Article [34](#) hereof;

2) where the product no longer possesses the specific properties recorded in the State Register of Appellations of Origin in relation to the appellation of origin in question.

*Subparagraph 3 is set out as amended by RK [Law dated 09.07.2004, No. 586- II \(see earlier revision\)](#)*

3) on the basis of a request of the owner of the right to use the appellation of origin filed to the authorized body;

4) in the event of liquidation of the legal entity or cessation of business activity by individual who owns the right to use the appellation of origin.

3. The registration of the appellation of origin and (or) of granting of the right to use the appellation of origin shall be deemed invalidated by the decision of the Appeals Board or the Court on grounds specified in the [paragraph 1 of Article 39](#) hereof.

*Subparagraph 4 is set out as amended by RK [Law dated 09.07.2004, No. 586- II \(see earlier revision\)](#)*

4. The expert organization makes an entry into the State Register of Appellations of Origin concerning a termination of the registration of the appellation of origin or the right to use the appellation of origin where it is expired or recognized as invalid.

### **Chapter 12. Protection of the rights of the trademark owners and the rights to use the appellation of origin**

*Article 41 is amended in accordance with the RK [Law dated 09.07.04 No. 586-II \(see earlier revision\)](#); is set out as amended by the RK [Law dated 12.01.12 No. 537-IV \(see earlier revision\)](#)*

#### **Article 41. Appeals Board**

*Paragraph 1 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#)*

1. The Appeals Board is a division of the authorized body on the pre-trial review of disputes on objections, filed in accordance with [paragraph 6 of Article 12, paragraph 4 of Article 19, paragraph 2 of Article 23, paragraph 2 of Article 39](#) hereof. [The authorized body shall approve the Regulations on the Appeals Board.](#)

*Article is supplemented with subparagraph 1-1 in accordance with the RK [Law dated 07.04.15 No. 300-V](#)*

1-1. Pre-trial review of disputes on objections referred to in paragraph 1 hereof shall be binding.

*Paragraph 2 is amended in accordance with the RK [Law dated 07.04.15 No. 300-V \(see earlier revision\)](#)*

2. The following objections may be filed to the Appeals Board:

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

2) as to the decisions of the authorized body for refusal to register and (or) the granting of the right to use the appellation of origin;

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

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

5) against the duration of the trademark registration due to its non-use. The objections referred to in subparagraphs 1) and 2) hereof shall be submitted by the applicant or his (her) successor either directly or through a representative.

Any person concerned hereof shall submit the objections referred to in subparagraphs 3) -5) either directly or through a representative.

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

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

The objection shall be submitted at a stated time, referred to in this Law.

The deadline, missed by the applicant for the objections, which are specified in subparagraphs 1) and 2) of the first part hereof shall be restored at the intercession by the applicant at a stated time referred to in this Law. Such an intercession shall be submitted simultaneously with the objection to the Appeals Board.

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

4. The filed objection shall be reviewed at the board meeting of the Appeals Board at a stated time, prescribed hereby. The deadline of objections shall be extended at the request of the contestant, as well as the owner of the title of protection, but no more than six months from the deadline of expiry to review the objections.

5. The person, filed the objection, the owner of the trademark or the right to use the appellation of origin shall be entitled to appeal the decision of the Appeals Board to the court within six months from the date of the decision.

*The Law is supplemented with Article 41-1 in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV*

#### **Article 41-1. Grounds for refusal to review the objections in the Appeals Board**

The objections shall not be reviewed, if:

- 1) the objection is not subject to review in the Appeals Board;
- 2) the objection is not signed or signed by a person, who does not have the relevant authority;
- 3) the objection is filed in violation of deadline and the possibility of renewal and restoration of the deadline is failed;
- 4) the applicant fails to eliminate the deficiencies, relating to the requirements for the execution, content and process for filing the objection within the prescribed time.

Due to above circumstances the person filed the objection shall be notified that the delivered objection cannot be accepted for review and it is considered not to be filed.

The person, filed the objection, or his representative may recall the filed objection before the announcement of the board meeting's decision of the Appeals Board.

*The Law is supplemented with Article 41-2 in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV*

#### **Article 41-2. Review of the objections at the board meeting of the Appeals Board**

1. Review of the objection shall be carried out at the meeting of the Appeals Board where at least five of its members are present. The confidentiality of the board's personnel of the Appeals Board shall be secured prior to the start of the dispute review.

The representatives of the research institutions and the experts in the appropriate field shall be invited to report the conclusions at the board meeting.

2. The board of the Appeals Board shall be entitled to postpone the meeting in the following cases:

- 1) the impossibility of examining the objection at the meeting due to absence of any of the persons entitled to participate in the objection review;
  - 2) the need to submit the missing, additional documents (evidence) for a decision on the merits by the parties;
  - 3) at the intercession of the parties.
3. Persons participating in the objection review shall be entitled to:
- 1) get acquainted with the materials of the case, make extracts from them, order and receive copies thereof;
  - 2) submit the evidence;
  - 3) participate in the examination of evidence;
  - 4) put the questions to the participants of the appeals process;
  - 5) submit the sessions;
  - 6) give verbal and written explanations of the board members of the Appeals Board;
  - 7) submit their arguments and ideas on all issues arising in the course of consideration of objections;

8) oppose motions, arguments and considerations of other persons involved in the case.  
4. The board of the Appeals Board shall make the decision in resolving the dispute on the merits. The decision shall be adopted by a simple majority of votes at the board of the Appeals Board. Where the number of votes is equal, the chairman of the board meeting of the Appeals Board shall have the decisive vote. The decisions shall be made following the objections as below:

- 1) on satisfaction of the objections;
- 2) on partially satisfaction of the objections;
- 3) on postponement of the objection review;
- 4) for refusal to satisfy the objections.

5. The board of the Appeals Board shall prepare and send the decision of the Appeals Board to the parties within ten working days from the date of the judgment. The decision of the Appeals Board shall be set out in writing and shall consist of an introduction, descriptive, motivation and conclusion parts. All the members of the board of the Appeals Board shall sign the decision of the Appeals Board.

#### **Article 42. Review of disputes**

1. The following disputes shall be subject to review by the courts:

*Subparagraph 1 is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

- 1) on the legality of a trademark registration or appellation of origin;
- 2) on infringement of the exclusive rights of the trademark owner or the right to use the appellation of origin;
- 3) on the conclusion and execution of license agreements for the use of the trademark;

*Paragraph is supplemented with subparagraph 3-1 in accordance with the RK [Law](#) dated 09.07.47 No. 586-II*

3-1) on the legality of the recognition of the well-known trademark;

*Subparagraph 4 is amended in accordance with the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

4) on other disputes related to the protection of the rights arising from the registration.

*Paragraph 2 is amended in accordance with the RK [Law](#) dated 09.07.47 No. 586-II (see earlier revision)*

2. Based on a court decision, the expert organization shall publish the information on changes in the registration.

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

*Paragraph 1 is set out as amended by the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision)*

1. The infringement of the exclusive rights of the trademark owner or the right to use the appellation of origin shall include the unauthorized introduction of a trademark or appellation of origin, or designations confusingly similar to them, into civil circulation in respect of homogeneous goods and services, and in the case of well-known trademark - in respect of any goods and services.

The infringement of the exclusive rights of the trademark owner or the right to use the appellation of origin shall include an unauthorized use of a trademark or appellation of origin in public telecommunication networks (Internet and others).

*Paragraph 2 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision)*

2. For the use of the protected trademark or appellation of origin, as well as a designation confusingly similar thereto, for homogeneous goods, in violation of the Law, the guilty person shall bear responsibility in accordance with [the RK laws](#).

*The illegal use shall be recognized as [unfair competition](#), see the RK [Law](#) dated December 25, 2008 No. 112-IV "On Competition" as to responsibility therefor.*

#### **Article 44. Responsibilities of the person violated the rights of the trademark owner or the right to use the appellation of origin**

A person unlawfully using a trademark or appellation of origin or designation confusingly similar to them shall be obliged to:

1) stop the infringement and reimburse the losses incurred to the trademark owner or the right to use the appellation of origin;

2) destroy the manufactured images of the trademark or appellation of origin, remove from the product, its packaging, forms or other documentation which unlawfully used the trademark or appellation of origin, as well as a designation confusingly similar to them. If unable to meet this requirement, the relevant goods must be destroyed in accordance with the legislation of the Republic of Kazakhstan.

### **Chapter 13. Final provisions**

*Article 45 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision); is set out as amended by the RK [Law](#) dated 22.11.05 No. 90-III (see earlier revision); is amended in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV (see earlier revision), is set out as amended by the RK [Law](#) dated 10.07.12 No. 34-V (see earlier revision), is set out as amended by the RK [Law](#) dated 07.04.15 No. 300-V (see earlier revision)*

#### **Article 45. State duty**

The state duty shall be charged for the commission by the competent authority of action for the registration of trademarks and appellations of origin, registration of well-known trademark, registration of contracts, certification of patent agents, and issuance of a certificate of registration of a patent agent in accordance with [the tax law](#) of the Republic of Kazakhstan.

*Article 46 is set out as amended by the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision); is amended in accordance with the RK [Law](#) dated 22.11.05 No. 90-III (see earlier revision), is set out as amended by the RK [Law](#) dated 12.01.12 No. 537-IV (see earlier revision)*

#### **Article 46. Patent agents**

1. A capable citizen of the Republic of Kazakhstan permanently residing on its territory, with higher education and work experience in the field of intellectual property at least four years, attested and registered by the authorized body in the field of intellectual property shall have the right to be a patent agent.

For the attestation of candidates for patent agents, the authorized body shall arrange the Attestation Commission from the staff of the authorized body and expert organization. The minimum number of members of the Attestation Commission shall be not less than five employees.

The authorized body shall hold attestation of candidates for patent agents at least once a year upon receipt of applications from candidates for patent agents.

According to the attestation results, the Attestation Commission shall decide on the attestation or refusal to attest a candidate. [The authorized body shall approve the form of decision of the Attestation commission](#).

Decision of the Attestation Commission may be appealed in court within three months from the date of issuance of such decision.

Successful candidates for the patent agent shall get a certificate of a patent agent, the form of which is set by the authorized body.

The state duty fixed by [the tax legislation](#) of the Republic of Kazakhstan shall be paid for the attestation of patent agent and issuance of certificates.

2. The attestation of patent agent shall not be allowed for candidates:

1) who prohibited from engaging in business activities in accordance with [the RK laws](#);

2) who are employees of the authorized body and its subordinate organizations, as well as their close relatives, husband (wife);

3) who have an unredeemed or unquashed [conviction](#) for committing a crime [as prescribed by law](#);

4) who excluded from the register of patent agents in accordance therewith.

3. The activity of a patent agent shall be suspended by the minutes of the Attestation Commission:

1) based on the application of the patent agent filed to the Attestation Commission;

2) for the period of reference to persons who prohibited from engaging in business activities, including the staff of the authorized body and its subordinate organizations, in accordance with [the RK laws](#);

3) in order to clarify the circumstances provided for in [subparagraphs 2\) and 6\) of paragraph 1 and paragraph 5 of Article 46-2](#) hereof.

In the case referred to in subparagraph 3) hereof, the activity of patent agent shall be suspended until the decision by the Attestation Commission is made within three months.

The activity of a patent agent shall be re-established by the minutes of the Attestation Commission in the case the grounds for the suspension of its activities were removed.

4. As a representative of the applicant, the patent agent shall carry out the activities related to the conduct of affairs with the authorized body and the expert organization on the legal protection of intellectual property. The cooperation with the authorized body and the expert organization may also be carried out by the applicant and (or) the owner of the trademark on their own.

Individuals residing outside the Republic of Kazakhstan and foreign legal entities shall exercise their rights of the applicant, the owner of a trademark, service mark, and appellation of origin, as well as the rights of the person concerned in the authorized body and its organizations through patent agents.

Individuals permanently residing in the Republic of Kazakhstan but temporarily residing abroad shall exercise their rights of the applicant, the owner of a trademark, service mark, and appellation of origin, as well as the rights of the person concerned, without a patent agent when specifying the address for correspondence in the Republic of Kazakhstan.

5. The information received by a patent agent from the principal in connection with the performance of his assignments, shall be acknowledged as confidential in compliance with requirements of legislative acts of the Republic of Kazakhstan claimed to the protection of [official and commercial secrets](#).

*The Law is supplemented with Article 46-1 in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV*

#### **Article 46-1. Rights and duties of patent agent**

1. A patent agent shall be entitled to exercise the activities in the interest of the applicant (individual or legal entity), the employer to be concluded an employment contract with him, or a person who has concluded the civil contract with him or his employer, as follows:

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

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

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

4) the assistance in the preparation, review and subsequent sending of license (sublicense) agreements and (or) assignment agreement to the examination.

2. The powers of patent agent shall be certified by the power of attorney.

3. In the case of submission of a copy of the power of attorney by the patent agent to conduct business related to submissions for trademarks (service marks), and appellations of origin and (or) receipt of the title of protection, and filing the objection to the Appeals Board within three months from the filing date of the application or the objection the patent agent shall be obliged to submit the original of power of attorney, respectively to the expert organization and the authorized body. The original power of attorney shall be returned after confirmation of the authenticity.

If a power of attorney is drawn up in a foreign language, its translation into Kazakh and Russian languages must be obligatory represented with the relative notarization.

4. The patent attorney shall not accept a commission in cases where the case represented or advised the persons whose interests are contrary to the interests of the person requesting the conduct of the case or taking other participation in its consideration, and if the proceedings involved officer, is a close relative of a patent attorney, husband (wife) and his (her) relatives.

*The Law is supplemented with Article 46-2 in accordance with the RK [Law](#) dated 12.01.12 No. 537-IV*

#### **Article 46-2. Revocation and cancellation of the certificate of a patent agent**

1. A patent agent shall be excluded from the register of patent agents by the decision of the Attestation Commission:

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

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

3) in the case of a break in the professional activity of the patent agent for more than five years;

4) upon entry into force of a judgment of conviction, which convicts a patent agent for a crime;

5) upon the death of the patent agent or the recognition of him as the missing or declared dead;

6) in the case a patent agent is recognized as legally incapable or partially capable.

2. In the case of a patent agent exclusion from the register on the grounds specified in paragraphs 4), 5) and 6), the certificate shall be canceled by the decision of the Attestation 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](#) hereof, the certificate of a patent agent shall be revoked by the decision of the Attestation Commission on the application of the patent agent or third parties which have the grounds for it.

The patent agent, excluded from the register on the grounds of subparagraphs 1) and 2) of paragraph 1 hereof may be re-registered as a patent agent without re-qualification exam, provided the termination of the grounds, due to which the exclusion from the register occurs and the application to the Attestation Commission within three years from the date of publication of the decision on exclusion from the register. The Attestation Commission on the documents submitted shall establish the fact of termination of the grounds referred to in subparagraphs 1) and 2) of paragraph 1 hereof.

4. A patent agent excluded from the register of patent agents, shall lose the right to operate as a patent agent from the date of the information registration, and a certificate of registration as a patent agent shall be revoked or canceled.

5. In the case of unfair performance of his duties by the patent agent established by this Law, the authorized body shall arrange the Appeals Board, which composition shall be consisted of an odd number of the authorized body's employees.

The Appeals Board is a collegial body and deals with complaints of individuals and (or) legal entities on the actions representing their rights and legitimate interests of the patent agents which committed, in their opinion, in violation of applicable law.

Persons who filed complaints against the patent agent and patent agents, in respect of whom such complaints are filed, shall be entitled to participate at the meeting of the Appeals Board.

Upon review of the complaint, the Appeals Board shall recommend that the authorized body shall send a lawsuit to annul the certificate of a patent agent, or take one of the following decisions:

1) on postponement of the complaints' consideration due to the lack of evidence, or until ascertaining the circumstances that contribute to the adoption of objective decision;

2) on refusal for the complaint.

The decision of the Appeals Board shall be taken by a simple majority of vote and registered in the minutes. The decision of the Appeals Board may be appealed in the court.

**The authorized body shall set out the Regulations on the Appeals Board.**

**Article 47. Registration in foreign countries**

*Paragraph 1 is amended in accordance with the RK [Law](#) dated 09.07.04 No. 586-II (see earlier revision)*

1. Legal entities and individuals of the Republic of Kazakhstan shall have the right to register a trademark abroad or make its international registration.

The application for international registration of a trademark shall be filed through expert organization.

2. Registration of the appellation of origin in foreign countries shall be made following its registration and obtaining the right to use this appellation of origin in the Republic of Kazakhstan.

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

Foreigners, foreign legal entities, stateless persons shall exercise the rights and bear the responsibility stipulated by this Law, equally with legal entities and individuals of the Republic of Kazakhstan, unless otherwise stipulated by legislative acts of the Republic of Kazakhstan.

*See the RK [Law](#) dated May 4, 2001 No. 189-II “On ratification of the Agreement on measures to prevent and suppress the use of false trademarks and geographical indications.”*

**President of the  
Republic of Kazakhstan**

**N. NAZARBAYEV**