

KYRGYZSTAN (KYRGYZ REPUBLIC)

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PART 1 PATENTS

§1.01 SUMMARY

[A] Kinds of Patents

- National patent

[B] Duration of Patents

- 20 years from the filing date

[C] Patentable / Not Patentable

- An invention is patentable if it is new, involves an inventive step and is industrially applicable.
- The exceptions as mentioned in Rule 39 PCT apply.

- Also not patentable are algorithms and computer software as such, rules and methods of mental operations and rules of games; projects and plans of layouts of construction, appearance of an article, and topographies of integrated circuits.
- Methods of treatment of the human body may be patentable.

[D] Novelty

- Absolute (worldwide) novelty applies.
- A 12-month grace period preceding filing/priority applies.

[E] Filing Requirements and Application Procedure

- Filing languages: description in any language, claims in Kyrgyz or Russian language
- Language of translation: Kyrgyz or Russian
- Time limit for filing translation: 3 months
- A patent is granted after substantive examination.

[F] Specific Aspects of Regional Patents

- Eurasian patents can be validated in Kyrgyzstan.

[G] Specific Aspects of International Patent Applications (PCT)

- Time limit for entering national phase: 31 months from the priority date
- Time limit for filing translation: 3 months from the national phase entry.

[H] Governmental Websites

- <http://patent.kg>

§1.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention (International Union), 1883–1967, effective from 25 December 1991;
- Convention Establishing the World Intellectual Property Organization (hereinafter ‘WIPO Convention’), 1967, effective from 25 December 1991;
- Patent Cooperation Treaty (PCT), 1970, effective from 25 December 1991;
- Strasbourg Agreement Concerning the International Patent Classification, 1971, effective from 10 September 1999;
- Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (Budapest Union), 1977, effective from 17 May 2003;
- Eurasian Patent Convention, 1994; and
- Marrakesh Agreement Establishing the World Trade Organization, Annex 1C: Trade-Related Aspects of Intellectual Property Rights (TRIPS), effective from 20 December 1998.

[2] Laws

- Patent Law No. 8 as of 14 January 1998, revised on 23 March 2020.

The law governs patent protection of inventions, utility models and industrial designs.

[B] Kinds of Patents

- National patent of invention
- Eurasian patents validated in Kyrgyzstan.

[C] Duration of Patents

The duration of a patent of invention is twenty years from the filing date, subject to paying annual maintenance fees.

[1] Patent term extension / Supplementary protection certificate

According to the recent amendments introduced on 10 April 2015, patent extension for pharmaceutical products was excluded.

[D] Requirements for Renewal

The annuities are paid only beginning from the third year of issuance.

The document confirming the payment of the maintenance fee for the first year of validity of the patent shall be provided together with the document confirming the payment of an official granting fee.

The document confirming the payment of the maintenance fee for each subsequent year of the validity of the patent for an invention shall be provided within the last two months of the current year of the validity of the patent.

The document confirming the payment of the maintenance fee for any year of the validity of the patent may be provided within six months as of the date of expiration of the prescribed term. In this case, the amount of the fee shall be increased by 50%.

[E] Patentable / Not Patentable

An invention is patentable if it is new, involves an inventive step and is industrially applicable.

The exceptions as mentioned in Rule 39 PCT apply.

The list of exceptions to patent protection includes the following:

- (1) Discoveries.
- (2) Scientific theories and mathematical methods.
- (3) Business methods.
- (4) Symbols, schedules and rules, methods of mental operations and game rules.
- (5) Algorithms and computer software as such.
- (6) Projects and plans of layouts of constructions.
- (7) Solutions constituting provision of information solely.
- (8) Solutions regarding appearance of an article aimed at satisfying aesthetic needs.
- (9) Topographies of integrated circuits.
- (10) Plant and animal breeds.

[1] Chemical compositions

Patents of invention can be granted for chemical compositions that are patentable products or processes.

[2] Pharmaceuticals

Patents of invention can be granted for pharmaceuticals that are patentable products or processes.

[3] Second use

The objects of inventions may be an application of previously known device, method, composition of matter and strain for a new purpose.

[4] Treatment of the human body

The Kyrgyzstan law does not provide the banning of registration of treatment of the human body. The law provides permission to patent a process in all technical fields and technologies.

[5] Biological materials

A patent can be granted for a strain of microorganism, cells of plants and animals, as well as application of previously known strain for a new purpose.

[6] Plant varieties

Plant varieties are not patentable.

[7] Software-related inventions

Algorithms and computer software as such are not patentable.

[8] Business methods

Business methods are not patentable.

[9] Immoral inventions or inventions contrary to public order

Inventions which are contrary to humanitarian principles, morality and public order may not obtain protection.

[10] Semiconductors

Topographies of integrated circuits are not patentable.

[F] Novelty

Absolute novelty applies for patents for invention.

An invention is new if it supersedes the prior art.

[1] Grace period

The novelty grace period of twelve months preceding filing/priority date applies.

[G] Ownership and related rights*[1] Applicant*

Individuals or legal entities are entitled to apply for a patent.

Under the law of Kyrgyz Republic, an inventor or employer of the inventor, their assignee, including the person who obtained a respective right by way of transfer has a right to apply for a patent.

The transfer of a right for obtaining the patent by an applicant shall be performed by introducing a respective note into an application or into a request filed with the Patent Office of Kyrgyz Republic prior to the registration of an invention.

No confirmation of a right to file an application by providing any document is required.

[2] Assignment

An owner of a patent is entitled to assign their rights. An assignment must be in writing and signed by the parties.

Official registration of assignments is compulsory. An assignment becomes effective for third parties as of the date of its official registration.

Information on assignment of rights to an invention is subject to recordal in the Register of Inventions.

An application shall be accompanied by the following documents, namely:

- An agreement (original) or an extract therefrom, certified under the laws of the country of origin of the document, in three exemplars (two of which may be copies). Each page of the agreement must be signed by the parties thereto.
- An original (duplicate) of a protection document.
- The document confirming the payment of a respective fee at a standard rate according to the tariff.
- A copy of the document confirming the inheritance right or a right to succession.
- A power of attorney in case an application is filed by the patent attorney or other representative.

The said documents shall be filed in Kyrgyz or in Russian. If the documents are provided in other language, they must be accompanied with their translation into Kyrgyz or Russian. Foreign names and business names must be provided in Kyrgyz or Russian transliteration. Liability for the correctness of transliteration is laid upon an applicant.

[3] Licenses

An owner of a patent is entitled to give authorization (grant a license) to any person to use the invention. A license agreement must be in writing and signed by the parties.

Official registration of licenses (on condition that the State fee is paid) is compulsory. A license agreement becomes effective for third parties as of the date of its official registration.

The Kyrgyz patent law also includes provisions concerning compulsory licenses, under which the government is entitled to authorize exploitation of an invention for purposes related to the national defence or public interest without the consent of the patent owner.

[4] Pledge and Seizure

The subject of a pledge shall be constituted by the intellectual property rights.

A pledger has a right to, unless otherwise is provided for by the agreement and follows from the nature of a subject of a pledge, make use of the subject of a pledge according to its intended purpose, in particular, to derive benefits and profits from it. Furthermore, the pledger has a right to assign the subject of a pledge for the purposes of ownership, economic management or operation, to rent it or transfer to other person without compensation or otherwise to dispose of it only upon the consent of a pledgee.

An agreement which restricts the pledger's right to bequeath the pledged property shall be invalid.

A pledgee has a right to make use of the subject of a pledge transferred to them only in the cases provided for by the agreement. The reports on such use must be provided to the pledger on a regular basis. According to the provisions of the agreement, a pledger may be obliged to derive benefits and profits from the subject of pledge for the purposes of paying off primary obligations or in pledger's interests.

The relief of a pledger from the cost of a pledged property shall be made through legal proceedings, unless otherwise provided for by the Civil Code of Kyrgyz Republic or other legislative acts or by the agreement.

The pledge agreement is subject to State registration on condition that the State fee is paid. Without the registration, the pledge agreement is invalid. The information on the recordation is officially published.

[H] Filing Requirements

[1] Obligation to file first with national office

Submission of applications to foreign countries for the objects of industrial property created in the Kyrgyz Republic shall be exercised after expiration of three months as of the date of file of an appropriate application with the Patent Office.

In the necessary cases, the Patent Office may allow patenting of the objects of industrial property in foreign countries earlier than the indicated term, after the examination of an application for the presence of information which is of the State secret has been conducted in the order established by the Patent Office.

In the event of submission of an application to foreign countries or international organizations for the object of industrial property created in the Kyrgyz Republic, with violation of the established order, the protected document for this object of industrial property shall not be provided in the Kyrgyz Republic.

[2] Minimum requirements for obtaining filing date / Provisional applications

The date of filing of application with the Patent Office is established based on the date of submitting of the documents necessary for establishing the priority (application for the grant of a patent, a description of an invention, etc.), or based on the date of filing of the last of the mentioned documents, if the said documents are not submitted simultaneously.

An application for the grant of a patent shall be filed in the Kyrgyz or Russian language. The claims of the invention, the name of an applicant and patent owner must be submitted in the Kyrgyz or Russian language. If other documents of the application as well as documents presented during examination of an application are submitted in the other language, the translation into Kyrgyz or Russian shall be attached.

A priority may be established based on the date on which an earlier application disclosing this invention was filed with the Patent Office by the same applicant, provided that the application in respect of which the priority is claimed has been filed within twelve months as of the date of filing of the earlier application for the invention. In such a case, the earlier application shall be deemed to be withdrawn.

[3] Request for grant

A request for grant of a patent shall state the name of the inventor (inventors) of the invention and person (persons) in the name of which the patent is to be issued, and address of their residence or location.

If the patent is to be issued in the name of an applicant (applicants), instead of information on the persons in whose name a patent is to be issued after the words 'in the name of' it should be stated 'the applicant (applicants)'.

No requirement is provided for by the Kyrgyz Republic legislation to submit documents accompanying application if an applicant is not an inventor and the right to file an application

has been granted to them based on inheritance, assignment, transfer, employment contract, etc.

A request for grant of a patent, claims, the name of an invention, the name of the applicant and the patent owner, which must be filed either in Kyrgyz or in Russian language.

[4] Appointment of Representative

Foreigners not resident in Kyrgyzstan must appoint an agent.

[5] Power of Attorney / Designation of inventor / Other documents

The power of attorney issued in Kyrgyz Republic for representation before the Patent Office is executed in simple written form and does not require notarization. The power of attorney issued outside the Kyrgyz Republic is executed according to the rules and for the period provided for by the legislation of the country of its issuance.

[6] Priority

Convention priority may be claimed. Priority document must be filed within four months from filing the application. Translation is required into Kyrgyz or Russian within three months of filing priority document.

If due to circumstance beyond the applicant's control, the application claiming the convention priority could not be filed within the specified time period, the latter may be extended but for no more than two months.

[7] Allowable language(s) upon filing / Language(s) of procedure

An application for the grant of a patent, the claims of the invention, the name of the object of industrial property, the name of an applicant and patent owner must be submitted in the Kyrgyz or Russian language.

Other documents of the application as well as documents presented during examination of an application may be submitted in the other language (the translation into Kyrgyz or Russian shall be attached).

Time limit for filing translation: three months.

The language of procedure is Kyrgyz or Russian language.

[8] Description

The specification may initially be filed in any language, provided that a translation in Kyrgyz or Russian is filed within three months.

[9] Claims

The claims of invention shall be drafted in Kyrgyz and Russian languages.

In case the other application documents and the documents submitted in the course of conducting the examination of application are presented in another language, they should be accompanied with their translation into Kyrgyz or Russian language.

The translation of the documents into Kyrgyz or Russian language shall be furnished by an applicant within three months as of the date of filing of the application with the Patent Office.

Multiple dependency of claims is permitted, subject to payment of extra fees after the tenth dependent claims.

Additional claim fees are paid for each additional claim after the first.

[10] Abstract

An application for a patent for invention shall contain an abstract in Kyrgyz or Russian. The abstract serves for an informative purpose and constitutes a brief presentation of the contents of the description of the invention including the title of the invention, description of the state of the art to which the invention relates, and (or) its intended purpose if it is not clear from the title thereof, the description of the subject matter of the invention with indication of the technical result to be achieved. The subject matter of the invention is characterized in the abstract by free presentation of the claims in the manner when all essential features of each independent claim are preserved.

[11] Drawings

An application for a patent for an invention shall contain drawings and other materials if they are necessary for understanding the subject matter of the invention. The drawings and other explanatory materials may be executed in the form of graphic materials (drawings themselves, charts, graphs, orthographic epures, figures, oscillograms, etc.), photographs, tables and diagrams.

Figures are provided in the event if the description cannot be illustrated by the drawings or charts. In exceptional cases, for example for illustration of the steps of performing surgical operations, photographs may be provided as a main form of the explanatory materials.

[12] Payment of fees

The invention application shall be accompanied by proof of payment of the prescribed fee.

Patent annuities are due after grant and are paid as of the third annuity for patents of invention. Late payment is possible with a 50% fine.

[I] Application Procedure

[1] Filing Authority

An application for a patent for an invention shall be filed with the State Intellectual Property Service of the Kyrgyz Republic – the Patent Office.

[2] Online filing

Not applicable in this jurisdiction.

[3] Formal examination

In case of applications for a patent of invention, the law provides for formal and preliminary examination.

Formal examination is carried out within two months from the filing date. The application is checked on the subject whether the claimed subject matter is patentable and whether formal requirements are met. After the completion of formal examination, if the formal requirements are met, the Patent Office issues a notification about the acceptance of the application and allocation of the filing date.

Provisional examination is carried out within ten months during which the Patent Office checks whether the application documents meet the prescribed requirements, whether the invention meets the requirements of patentability and novelty, whether the unity requirements are met and establishes the priority. If in the course of provisional examination it is found that the claimed invention does not meet the requirements of patentability, a decision on the refusal is issued.

[4] Search

Information search, provided it has not been conducted upon the request of an applicant or the third parties, is conducted within eight months of the date of the beginning of substantive examination of the application.

The Patent Office conducts the information search in the scope covering the database of the Patent Office, the patent databases of Russian Federation, USSR, Eurasian Patent Office, United States of America, United Kingdom, Germany, France, Japan, Switzerland, European Patent Office and WIPO, and a non-patent literature according to the list published by the International Bureau of WIPO, with a retrospection of not less than five years.

[5] Obligation to submit prior art, corresponding foreign search results and/or application numbers

No obligation, but upon conducting an information search in the course of conducting the examination of the application, an expert must take into consideration the results of a patent search conducted by the International Searching Authority which are provided by an applicant.

Should an application for an invention include the report on the results of the international search, prepared by one of the international searching authorities, according to the PCT, the amount of the specified fee, shall be reduced by 25%.

[6] Substantive examination

In case of applications for a patent of invention, the law provides for substantive examination. This includes examination as to novelty, inventive step and industrial applicability.

A request for substantive examination is submitted either upon filing of an application or within thirty months from the filing date. A substantive examination is carried out within eighteen months from the date of filing a request.

[7] Accelerated examination / grant

The preliminary examination is conducted within ten months upon the receipt of a positive decision of a formal examination. Based on an applicant's request and provided a respective

official fee is paid, an accelerated preliminary examination may be conducted prior to expiration of ten months.

[8] Amendments and corrections

In the course of conducting the examination and before a decision in respect of this invention is taken, an applicant shall have a right to introduce on their own initiative the corrections and clarifications into the application materials without changing the subject matter of the invention.

Filing a request on corrections and amendments into the application materials by an applicant within two months as of the date of filing of the application shall not be subject to payment of an additional fee.

If the corrections and clarifications of application materials are made upon expiration of two-month term from the filing date, the respective requests must be filed together with the document confirming the payment of an established official fee.

[9] Third party observations

A third person shall have the right to file a request for substantive examination of the application within thirty months as of the date of filing of the application with the Patent Office.

[10] Grant

If it is found that the invention meets the requirements of patentability, the Patent Office issues a granting decision.

The applicant shall, within two months following the date of the decision, furnish to the Patent Office a document confirming the payment of a respective fee for preparation for issue of a protection document and of a fee for publication of the mention about the grant of such document, as well as the payment of an official granting fee.

Average processing time from filing to grant of the patent on invention is from 3 to 5 years

[11] Opposition / Re-examination

A patent may be opposed at any time during its term by any third party before the court or the Board of Appeals of the Patent Office. A decision on the grant of a patent may be opposed before the Board of Appeals by the third party. Such opposition shall be accompanied by the proof of payment of the prescribed fee. However, the time limit for filing such opposition is not specified.

A decision of the Board of Appeals may be opposed at a court.

[12] Appeal

The applicant may appeal against a decision for preliminary examination before the Board of Appeals within two months from the date of receipt of such decision.

A decision on the refusal for substantive examination may be appealed against at the Board of Appeals of the Patent Office.

A decision of the Board of Appeals may be appealed against in a court within six months as of the date of receipt of such decision.

[13] Unity of invention

An application for a patent for an invention shall relate to one invention only or to a group of inventions so linked as to meet the requirement of unity of an invention.

In case if it is established that the requirement of the unity of an invention is violated, an applicant is suggested to notify within a two-month period which invention should be considered, and to introduce the respective rectifications in the application materials. Other solutions included in the materials of the initial application may be executed as divisional applications.

If an applicant fails to notify within the two-month period of the date of receipt of notification on violation of the requirement on the unity of an invention which of the inventions should be considered, and does not introduce rectifications in the application materials, an invention mentioned in the claims first shall be considered.

[14] Divisional applications / Continuation applications

A divisional application should be filed before the refusal of the original application or before registration of the invention under the original application.

Continuation applications are not applicable in this jurisdiction.

[15] Conversion

It is possible to convert a utility model application into a patent application and vice versa.

[16] Publication / Public File Inspection

Applications are published within eighteen months from the filing date.

The Patent Office publishes in its Official Bulletin the particulars of patents for inventions, provided that the granting and registration fees have been paid within two months from the date of receipt of a granting decision.

[17] Withdrawal to prevent publication

The applicant shall have the right to withdraw an application at any time before the date of receiving the decision on granting a patent.

[J] Nullity and Revocation

A patent may be cancelled at any time during its term by any third party before the court or the Board of Appeals of the Patent Office.

A patent shall be declared invalid:

- upon expiration of the term of its validity;
- in case of failure to pay the official renewal fee in due time;
- based on the application filed by the patent owner with the Patent Office, provided that such revocation does not violate the interests of the third persons.

A patent shall be deemed to be invalid fully or in part based on a decision of the Board of Appeal or the court's decision which came into force, in the following cases: the patented

invention does not meet the requirements of patentability; the claims contain features of the invention which were not present in the application as filed, etc.

[K] Use Requirement

Working of a patent is compulsory. If the invention is not used during a period of three years after the grant of a patent, any person may obtain the right to use the invention based on a court decision in case where the patent owner refuses to issue a license. The use of an invention is constituted by manufacturing a product with the use of a patented invention, importation, offering for sale, sale and other marketing for said purposes.

[L] Marking

The patent owner may use a precautionary marking with the indication of the patent number on a product or the package of a product that has been manufactured with the use of the patented invention.

Marked products have no implications for awarding compensation in case of past infringement.

[M] Infringement

[1] Infringing acts / Non-infringing acts

The use of the object of industrial property protected by the patent with failure to follow the provisions set forth by the legislation of the Kyrgyz Republic is deemed to constitute the infringement of rights conferred by the patent. In this respect, the use of the object of industrial property shall be constituted by manufacturing a product with the use of a patented object of industrial property, application of such product, importation, offering for sale, sale and other placing on the market or storage of such product for said purposes, and also by application of the method, protected by the patent for an invention.

As an infringement of rights conferred by a patent shall not be for the following actions:

- (1) The use of the facilities containing the patented objects of industrial property in the structure of a transport facility, or upon use of such transport facility of a foreign State, which temporarily or accidentally enters the territory of Kyrgyz Republic, provided that they serve for the purposes of that transport facility.
- (2) Conducting a scientific research into or experiment on a facility containing the object of industrial property.
- (3) The use of such facilities in the events of force majeure (natural disasters, catastrophes, major accidents, etc.) with a subsequent paying a patent owner the corresponding compensation.
- (4) The use of facilities containing the patented objects of industrial property, provided that these facilities are legally introduced into civil turnover based on the rights received from the patent owner. In this case, the person acquiring upon authorization of the patent owner the facility containing the object of industrial property or manufactured involving the application of a patented method has a right to use or dispose of this facility without having to obtain an additional authorization, if not specified otherwise by an agreement.

[2] Prior user rights

The right of prior use is recognized under the Kyrgyz law.

Any natural person or a legal entity who before the date of priority of an object of industrial property, regardless from the author, has created and used on the territory of the Kyrgyz Republic a solution similar to the object of an industrial property or made the required preparations shall keep the right to use it free of charge without enlarging the scope of such use.

The right of prior use may be assigned to another natural person or legal entity but together with the production where the use of identical solution has taken place or the required preparations has been made for that purpose.

The claimed invention since the date of publication of the information concerning application to the date of publication of the information concerning patent issue is provided by provisional legal protection in the scope of published formula but no more than the scope determined by the formula contained in the issued patent.

Provisional legal protection shall not be considered if an application was withdrawn or considered as withdrawn or if decision on the refusal in patent issue was made and the possibilities for its appeal are exhausted.

Any natural person or legal entity, using the claimed invention within the provisional legal protection period, shall pay an appropriate pecuniary compensation to the patent owner upon the grant of a patent. Size of this compensation shall be determined by the agreement between appropriate parties.

The above-mentioned paragraphs also cover the objects of industrial property since the date of placement of means containing such objects of industrial property at official or officially recognized international exhibition arranged on the territory of Member State of the Paris Convention on Industrial Property Protection, provided that an application for patent grant was filed with the Patent Office no later than six months since indicated date.

A person beginning the use of the object of industrial property since priority date but before the date of publication of the information concerning application for granting of a patent for invention as well as information concerning registration of utility models or industrial designs must dissolve a further use at the request of an applicant. However, such person must not pay applicant's damages incurred as a result of such use. In case of failure to execute the applicant's request provided by the above-mentioned paragraph, the infringer is liable for the infringement of rights of patent owner in accordance with the Law of the Kyrgyz Republic.

[3] Remedies

Unauthorized use of a patented invention is subject to application of administrative, civil and criminal sanctions.

According to the Kyrgyz legislation, the court may adopt a decision by which the products that infringe an intellectual property right and have been commercialized or stocked for commercial purposes as well as materials and implements that have been especially used in the manufacture of infringing products may be withdrawn from sale in favour of the aggrieved patent owner.

The issue of provisional (for the period of consideration of the case) removal of the said goods from the civil turnover may be solved yet before adopting a decision for the purpose of securing the claims.

[4] Penal provisions

Article 150 of the Criminal Code of Kyrgyz Republic reads:
Violation of Patentee's Rights.

- (1) Attribution of authorship in invention as well as coercion to co-authorship is punishable by a fine in the amount of fifty estimated rates.

- (2) The illegal use of an invention, utility model or industrial design, disclosure unauthorized by the author or patentee of the subject matter of the invention, utility model or industrial design before an official publication of information on them has been made, if a particularly great damage has been caused as result of these actions either wilfully or involuntarily, are punishable by a triple ayip or up to three years of imprisonment with disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years or with no such time limitation.
- (3) The deeds, mentioned in the paragraphs 1 and 2 of this Article, committed repeatedly, by a group of persons in collusion or by an organized group, are punishable by a triple ayip accompanied by disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years or imprisonment for the period from three to five years accompanied by disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years.

In this case, a particularly great damage is considered to be a damage which exceeds by 500 times an estimated rate, established by the legislation of the Kyrgyz Republic at the moment of committing a crime.

A triple ayip is a recovery imposed by the court in the amount of a threefold damage caused in cash or in kind.

[5] Enforcement and Customs

No customs means of protection of rights of the owner of the patent for the invention are provided for by the legislation of Kyrgyz Republic.

[N] Restoration after unintentional lapse

In case of failure to pay an annual fee for maintaining the patent for an invention in force, the patent shall be revoked. There is a 6 month grace period for late payment of fees. It should be noted that the third party, that during the interim patent invalidity was using the identical technical solution or undertook the appropriate arrangement, reserves the right to use that solution on a non-gratuitous base without extension of the scope of such use ('post-use' right).

Provided that a PCT application and a request for restoration is filed at the Receiving Office in this jurisdiction within fourteen months from the priority date, restoration of priority right under Rule 26*bis*.3 in the international phase of the PCT application may be possible.

If a priority right for a PCT application was restored by the Receiving Office, this may be recognized under Rule 49*ter*.1 PCT for the national phase application in this jurisdiction. In addition, a review of negative decision on the request for restoration by the Receiving Office may be requested in the national phase.

Furthermore, if a PCT application was filed within fourteen months from the priority date, but no request for restoration of priority right was filed at the Receiving Office, a request for restoration of priority right under Rule 49*ter*.2 PCT may be filed at the Designated Office within one month from the applicable time limit for the entry into the national phase.

[O] Specific Aspects of Regional Patents

Kyrgyzstan is a party to the Eurasian Patent Convention and an application for a Eurasian Patent may be filed to cover Kyrgyzstan. A Eurasian patent application to cover Kyrgyzstan may also be filed by way of filing an international application under PCT.

[1] Filing Authority

Within the frame of Eurasian Patent Convention, an application for a patent for an invention may be filed with the Eurasian Patent Office of the Eurasian Patent Organization by an applicant personally or through the Patent Office of Kyrgyz Republic.

[2] Appointment of Representative

Any person who has the right to be a representative before the Patent Office and who is registered with the Eurasian Patent Office as a patent agent may act as representative before the Eurasian Patent Office. Where the applicant does not have their residence or principal place of business in the territory of any Contracting State of Eurasian Patent Convention, they shall be required to be represented by such a patent agent. Persons having their residence or principal place of business in the territory of any Contracting State may file Eurasian applications and act in all proceedings before the Eurasian Office, either personally or through patent agents or through representatives who are not patent agents.

[3] Validation

The legal protection conferred by the patent shall be extended to the Contracting States of the Eurasian Patent Convention mentioned by an applicant in an application for a patent.

Any dispute arising in respect of the validity or infringement of Eurasian patent in a Contracting State of Eurasian Patent Convention shall be resolved by the national courts or other competent authority of that State on the basis of this Convention and the Patent Regulations. The decision shall have effect only in the territory of the Contracting State.

[4] Authentic text

An application for the grant of a Eurasian patent shall be presented in Russian language. Other documents of the Eurasian application shall be presented in Russian or other language. If the documents of the Eurasian application are presented in other language, it must be accompanied with the translation of the said documents into Russian language. Russian translation of the documents may be furnished by the applicant within two months as of the date of receipt by the Eurasian Patent Office of Eurasian application containing the documents executed in other language. An applicant shall have the right to submit the Russian translation within the two months as of the date of expiration of the preceding two-month term, provided the prescribed addition fee has been paid.

[5] Amendments and corrections

Before the technical preparation of the publication of Eurasian patent is completed, an applicant shall have the right to introduce amendments, clarifications or rectifications into the materials of Eurasian application. Introduction on an applicant's initiative of amendments and rectifications into the materials of the Eurasian application is performed upon payment of the prescribed additional fee.

A patent owner shall have a right to file with the Eurasian Patent Office a request for correction of mechanical and obvious errors in Eurasian patent.

Filing the request for correction of errors in the Eurasian patent which occurred through the fault of an applicant is subject to payment of a prescribed official fee by the patent owner.

Based on the request filed by the patent owner, the particulars of the group of inventors may be amended upon their mutual consent and upon the payment of a prescribed official fee.

Such amendments and corrections are published in the Bulletin of the Eurasian Patent Office.

[6] Publication

Information on the issuance of Eurasian patent is published by the Eurasian Patent Office in the Bulletin of the Eurasian Patent Office within six months as of the date of registration of this patent in the Register of Eurasian Patents.

[7] Provisional protection

After an application for the grant of a Eurasian patent has been published, the applicant shall enjoy provisional protection in conformity with the national legislation of the Contracting States of Eurasian Patent Convention.

[8] Simultaneous protection

There are no such provisions in the national legislation. However, in accordance with Article 20 of the Eurasian Patent Convention, the Patent Cooperation Treaty and its Regulations shall be applied in the Eurasian Patent System and, in the case of conflict between the provisions of the Patent Cooperation Treaty and its Regulations and this Convention and its Regulations, the former shall prevail.

[9] Conversion

Before the expiry of six months from the date on which the applicant receives notice on the Eurasian Patent Office's refusal to grant a Eurasian patent or its refusal to allow an appeal lodged in accordance with the Eurasian Patent Convention, the applicant may file a request with the Eurasian Patent Office designating those Contracting States in which they wish to obtain national patents according to the national procedure.

The Eurasian application in respect of which such a decision has been taken and which is the subject of such request shall be treated in any Contracting State so designated as a regular national application filed with the national Office and having the filing date and the priority date, if any, of the Eurasian application, with all the consequences provided in the national legislation, and it shall be further processed by the national Office, provided that the applicant pays the prescribed national fees to the said national Office.

[10] Payment of fees

Submission of applications to foreign countries for the objects of industrial property created in the Kyrgyz Republic shall be exercised after expiration of three months as of the date of file of an appropriate application with the Patent Office. Therefore, according to Eurasian Patent Convention where the Eurasian application is filed through a national Office, a fee shall be payable to the national Office at the time of the filing for examination as to form and transmittal of the application, whereas the unitary procedural fee shall be payable to the Eurasian Office at the time of the transmittal of the Eurasian application to that Office.

[P] Specific Aspects of International Patent Applications (PCT)

Since 14 February 1994, it is possible to designate Kyrgyzstan in international applications filed under the PCT of 1970. Kyrgyzstan is also bound by Chapter II of the PCT, and therefore it is possible to elect Kyrgyzstan under Chapter II.

[1] Receiving Office

International applications may be filed with the Kyrgyzstan Patent Office by nationals and residents of Kyrgyzstan.

All applications for patents are filed with the Patent Office.

Submission of applications related to the intellectual property objects created in the Kyrgyz Republic to foreign countries shall be exercised upon expiration of three months as of the date of filing of a respective application with the Patent Office.

[2] International Searching Authority

The competent International Searching Authority for international applications filed with the Patent Office is the Russian Patent Office or the European Patent Office.

[3] International Preliminary Examining Authority

The Competent International Preliminary Examining Authority for such applications is the Russian Patent Office or the European Patent Office in cases where the European Patent Office has established the international search report.

[4] National phase / Regional phase

The national phase must be entered into within thirty-one months (both under PCT Chapter I and Chapter II) from the priority date.

A translation of the international application into Kyrgyz or Russian must be filed within three months after the time limit for entry into the national phase.

At the petition of an applicant, the term of presenting indicated documents may be prolonged and reinstated in the event of its violation under the proof of valid reasons and payment of corresponding fee.

Average processing time from entry national/regional phase to grant of the patent is from 3 to 5 years.

Kyrgyzstan is a party to the Eurasian Patent Convention. Accordingly, the Eurasian Patent Office may be designated for entering into the regional phase to cover Kyrgyzstan.

[5] Payment of fees

Filing of an international application through the Patent Office is subject to payment of the fee determined by the legislation. The amount of the fee for further consideration of the application by the Competent International Searching Authority and the Competent International Preliminary Examining Authority is determined by and shall be paid to the International Bureau of WIPO.

[Q] Fees

The document confirming the payment of a fee for filing an application for a patent for an invention shall be provided together with an application or within two months as of the date of filing of an application with the Patent Office. In case of submitting of the said document after filing an application, the amount of the fee shall be increased by 20%.

In case of failure to provide the document confirming the payment of a fee within the said two-month term, an application shall be deemed to be withdrawn.

[1] Table of official fees

	USD
The fee for filing an application for a patent with conducting a formal examination:	
– one invention	55
– a group of inventions, for every additional invention over one	+20
The fee for filing a Eurasian application, an international application under the Patent Cooperation Treaty (PCT) and its assessment for the compliance with the requirements of a formal examination:	
– one invention	55
– a group of inventions, for every additional invention over one	20
The fee for conducting preliminary examination of:	
– one invention	55
– a group of inventions for every invention, utility model over one	+20
The fee for conducting substantive examination of:	
– one invention, utility model	200
– a group of inventions, utility models, for every invention, utility model over one	+100
Registration of an invention, issuance of a patent, publication of description up to 35 pages	120

[R] Transitional Provisions

No relevant legislation in this jurisdiction.

[S] Specific Patent Issues

No relevant legislation in this jurisdiction.

[T] Governmental Websites

- <http://patent.kg>

PART 2 TRADEMARKS

§2.01 SUMMARY

[A] Duration of Registration

- 10 years from the filing date, renewable for further periods of 10 years.

[B] Registrable / Not Registrable

- Registrable trade and service marks must have distinctive character.
- Trademarks can include devices, words, three-dimensional signs, holographic signs, or other signs and their combinations.

[C] Application Procedure

- Registration is granted after substantive examination on both absolute and relative grounds.

[D] Governmental Websites

- <http://patent.kg>

§2.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention (International Union), 1883–1967, effective from 25 December 1991;
- Madrid Agreement Concerning the International Registration of Marks, 1891–1967, effective from 25 December 1991;
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, 1989, effective from 17 June 2004;
- WIPO Convention, 1967, effective from 25 December 1991;
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, 1957–1977, effective from 10 December 1998;
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (Vienna Union), 1973, effective from 10 December 1998;
- Trademark Law Treaty (TLT), 1994, effective from 15 August 2002; and
- Marrakesh Agreement Establishing the World Trade Organization, Annex 1C: Trade-Related Aspects of Intellectual Property Rights (TRIPS), effective from 20 December 1998.

[2] Laws

- Law on Trademarks, Service Marks and Appellations of Origin as of 14 January 1998, with the revisions effective as of 23 March 2020.

[B] Duration of Registration

The duration of a registration is ten years from the filing date, and may be renewed for further periods of ten years.

[C] Requirements for Renewal

To renew a certificate, the trademark owner needs to submit a request and pay the renewal fee before the expiration of the current term of the certificate. The renewal fee may be paid within six months after the expiration of the prescribed term on condition that additional fee (exceeding a 50%) is paid.

[D] Registrable / Not Registrable

Registrable trade and service marks include devices, words, three-dimensional signs, holographic signs, or other signs and their combinations.

The following signs are exempt from protection:

- (1) National armorial bearings, flags and emblems.
- (2) Official names of States.
- (3) Emblems, abbreviated or full names of international interstate organizations.

Furthermore, protection is not granted to designations which:

- (1) lack distinctive character;
- (2) are used as designations of goods and services of certain kinds;
- (3) are indicative of the type, quality, quantity, properties, purpose, value of goods and services, as well as of the place and time of manufacture or selling of goods, or rendering of services;
- (4) are false or may cause confusion with respect to the goods, services or person manufacturing the goods or providing services; and
- (5) are commonly used symbols and terms.

Signs may also not be registered:

- (1) if these are identical or confusingly similar to the marks previously registered or applied for in the Kyrgyz Republic in the name of other persons with respect to similar goods and services;
- (2) if these are the marks of other persons, if these are protected without registration on the basis of the international treaties to which Kyrgyzstan is a party, in particular marks recognized as well known;
- (3) if these are identical or confusingly similar to the well-known trademarks recognized in the Kyrgyz Republic;
- (4) if these are the corporate names known in Kyrgyzstan and belonging to other persons who received the right to these before the filing date, and if these cover similar goods and services;
- (5) if these are appellations of origin, with the exception of cases where these are included into the mark as a non-protectable element and are registered in the name of the persons enjoying the right to use such names;
- (6) if these are industrial designs, rights which belong to other persons in Kyrgyzstan;
- (7) if these are titles of the known works of science, literature and art, or quotations and characters therefrom, without the consent of the copyright owners or their successors; and
- (8) if these are names, pseudonyms and derivatives thereof, portraits and facsimiles of persons known in Kyrgyzstan without having obtained their consent.

[1] Colour marks

Colours as such are not registrable.

Signs may be registered in any colour or combination of colours.

[2] Three-dimensional marks

Registrable trade and service marks include three-dimensional signs.

[3] Collective marks

Collective marks are recognized in Kyrgyzstan as trademarks owned by an association (a union) or any other association of legal entities or individual enterprisers and used for distinguishing goods and services which they produce or render.

Owners of collective marks may use their individual marks along with the collective mark on the goods which they produce.

[4] Certification / guarantee marks

Not applicable in this jurisdiction.

[5] Associated marks

Not applicable in this jurisdiction.

[6] Series of marks

Not applicable in this jurisdiction.

[7] Other marks

Legal protection may be granted to visually perceptible holographic signs. Sounds, tastes and smells are not registrable.

[E] Ownership and related rights*[1] Applicant*

Both an individual and a legal entity providing an entrepreneurship activity may be an applicant.

[2] Establishment of rights “first-to-file / first-to-use”

First to file system

[3] Assignment

A trademark owner may transfer their property rights in full or for part of the goods and services listed in the certificate based on an assignment agreement. Assignment of rights is prohibited if it can result in misleading consumers as to the goods or services, or as to the person manufacturing goods or rendering services.

The collective trademarks cannot be assigned.

An assignment agreement is not effective unless it is in writing and signed by the parties.

The registration of an assignment is compulsory. An assignment becomes effective for third parties as of the date of its official registration.

The collective trademarks cannot be assigned.

Information on assignment of rights to the trademark is subject to recordal in the Register of Trademarks.

An application shall be accompanied by the following documents, namely:

- an agreement (original) or an extract therefrom, certified under the laws of the country of origin of the document, in three exemplars (two of which may be copies). Each page of the agreement must be signed by the parties thereto;
- an original (duplicate) of a protection document;
- the document confirming the payment of a respective fee at a standard rate according to the tariff;

- a copy of the document confirming the inheritance right or a right to succession;
- a power of attorney in case an application is filed by the patent attorney or other representative.

The said documents shall be filed in Kyrgyz or in Russian. If the documents are provided in other language, they must be accompanied with their translation into Kyrgyz or Russian. Foreign names and business names must be provided in Kyrgyz or Russian transliteration. Liability for the correctness of transliteration is laid upon an applicant.

[4] Licenses and Registered Users

A trademark owner also has the right to give authorization (grant a license) to any person to use the mark under a license agreement. A license agreement must contain the provision that the quality of goods produced under the license agreement or services rendered shall not be inferior to the quality of goods produced or the services rendered by a certificate owner, and that the certificate owner must control fulfilment of this condition.

The collective trademarks cannot be a subject of a license agreement, i.e. they cannot be licensed.

A license is not effective unless it is in writing and signed by the parties.

The registration of a license is compulsory. A license agreement becomes effective for third parties as of the date of its official registration.

[5] Pledge and Seizure

The subject of a pledge shall be constituted by the intellectual property rights.

A pledger has a right to, unless otherwise is provided for by the agreement and follows from the nature of a subject of a pledge, make use of the subject of a pledge according to its intended purpose, in particular, to derive benefits and profits from it. Furthermore, the pledger has a right to assign the subject of a pledge for the purposes of ownership, economic management or operation, to rent it or transfer to other person without compensation or otherwise to dispose of it only upon the consent of a pledgee.

An agreement which restricts the pledger's right to bequeath the pledged property shall be invalid.

A pledgee has a right to make use of the subject of a pledge transferred to them only in the cases provided for by the agreement. The reports on such use must be provided to the pledger on a regular basis. According to the provisions of the agreement, a pledger may be obliged to derive benefits and profits from the subject of pledge for the purposes of paying off primary obligations or in pledger's interests.

The relief of a pledger from the cost of a pledged property shall be made through legal proceedings, unless otherwise provided for by the Civil Code of Kyrgyz Republic or other legislative acts or by the agreement.

The pledge agreement is subject to State registration on condition that the State fee is paid. Without the registration, the pledge agreement is invalid. The information on the recordation is officially published.

Collective trademarks cannot be a subject of pledge.

[F] Filing Requirements

[1] Request for registration

The following documents are necessary for filing a trademark application:

- (1) List of goods and services, which must be submitted in Kyrgyz or Russian translation. Multiple class applications are accepted.
- (2) For a collective mark, a statute of association.
- (3) A graphical representation of the mark.
- (4) The identity and description of the applicant.

[2] Classification

Kyrgyzstan adheres to the Nice International Classification of Goods and Services (11th edition). Multiple class applications are accepted.

[3] Multi-class applications

Multi-class applications are allowable.

[4] Appointment of Representative

Applicants not residing or having a principal place of business in Kyrgyzstan must appoint an admitted patent attorney as an agent.

[5] Power of Attorney

The power of attorney must be filed upon filing of the application. No legalization is required.

[6] Priority

If priority is claimed, a priority document is to be filed within three months from the filing date.

[7] Graphical representations

Representations of the sign to be protected must be filed.

[G] Application Procedure

[1] Filing Authority

A person who wishes to obtain a trademark registration certificate may file an application with the Patent Office (the State Patent Service of the Kyrgyz Republic).

[2] Online filing

Not applicable in this jurisdiction.

[3] Search

In the course of examination of an application for registration of a trademark, the search is conducted in order to check for identity or confusing similarity of the applied trademark with other registered or applied intellectual property objects. The search conducted in order to establish the identity and confusing similarity is performed in respect of the following designations:

- Trademarks registered or applied for registration in Kyrgyz Republic earlier in the name of other person with regard to the similar goods, in respect of which an earlier priority right exists.
- Firm names registered or applied for registration in Kyrgyz Republic.
- Trademarks of other persons, which enjoy legal protection without registration based on international agreements entered into by Kyrgyz Republic, in particular the trademarks which are recognized as well known in Kyrgyz Republic and enjoy legal protection according to Article 6*bis* of the Paris Convention; international registrations which enjoy legal protection according to the Madrid Agreement.
- Trademarks which were recognized as well known in accordance with the established procedure in Kyrgyz Republic.
- Names of product origin.

[4] Examination

The examination consists of preliminary and complete (substantive) examination. Preliminary examination is carried out within one month from the filing date, and the conformity of the sign for which registration has been applied for with formal requirements is checked. In the course of substantive examination, which is carried out within twelve months from the filing date, the conformity of the sign with the requirements of registrability, in particular distinctiveness is checked.

The sign is also checked for possible conflict with similar/identical earlier registrations. Letters of consent from owners of earlier registrations cited against a pending trademark are accepted.

The applicant is entitled, on condition of the fee payment, to file a motion for accelerated examination, which is undertaken not earlier than six months since the filing date, on condition that the motion for accelerated examination was filed within six months since the filing date.

[5] Registration

Within one month from the date of submission of payment of the registration fee, the Patent Office registers the mark in the State Register. Payment of the granting fee must be made within two months from the date of receipt of the decision.

An expired trademark cannot be re-registered within one year from the date of the expiration of the registration by any other person, but its former owner.

[6] Opposition / Observations

Any interested party may file an objection against the registration with the Board of Appeals of the Patent Office at any time after such registration, except for the cases where the registered trademark is similar to:

- trademarks earlier registered or filed for registration in the Kyrgyz Republic in the name of another person with respect to the similar goods which have an earlier priority;
- firm names registered or filed for registration in the Kyrgyz Republic – regarding identical or similar kinds of activities or goods and services;
- other persons' trademarks protected without registration by virtue of international agreements of the Kyrgyz Republic;
- industrial designs, rights to which belong to the other persons in the Kyrgyz Republic.

In such cases, any interested party may file an objection against the registration during five years from the date of publication of the information on registration of a trademark in the Official Bulletin. This provision does not apply to the trademarks registered in bad faith.

The Board of Appeals must consider such objection within four months from the date of its receipt.

A decision of the Board of Appeals may be opposed in a court within six months from the date of receipt of such decision.

[7] Appeal

Decisions of the Patent Office may be appealed against before the Board of Appeals within six months from the date of receipt of such decision.

[8] Alteration after Registration

The owner of a trademark shall notify the Patent Office about the changes to be made: name of the trademark owner, surname, first name or patronymic, reduction of the list of goods in respect of which the trademark is registered, changes of certain elements of the trademark that do not alter its essence and other changes related to the registration of a trademark.

If there is a necessity of supplementing the list of goods with respect to which the trademark is registered, a new application is required.

The changes shall be entered to the Register and to the Certificate of a trademark, provided that appropriate fee is paid.

The Patent Office shall make correction of obvious and technical errors made not due to the applicant's fault to the Register and to the Certificate of a trademark, without payment of any fee.

[9] Publication / Public File Inspection

Particulars of the registration are published in the Official Bulletin within one month from the date of official registration.

[H] Nullity and Revocation

Cancellation based on relative grounds is possible within five years from the publication of the registration particulars in the Official Bulletin.

At the same time, registration may be cancelled at any time during the term of the certificate if the trademark was registered with the infringement of third party's rights.

The information about the cancellation of a registration is entered into the State Register.

[I] Use Requirement*[1] Before registration*

Not required.

[2] After registration

Use is compulsory. Non-use within any three-year term after the grant of registration may result in cancellation of such registration in full or in part.

The use of a trademark is constituted by its application on any goods for which it was registered and/or their package, its use in advertising, in print, in business papers, on signboards, by displaying the goods at exhibitions. The use on the Internet also qualifies for the use of evidence in trademark infringement cases.

[J] Marking

The owner of a trademark may use a warning mark by the side of the trademark in the form of Roman letter R or (r) or verbal designation 'registered trademark' indicating that the used designation is a trademark registered in the Kyrgyz Republic.

Marked products have no implications for awarding compensation in case of past infringement.

[K] Infringement*[1] Infringing acts / Non-infringing acts*

Unauthorized manufacture, use, import, offer for sale, sale or other introduction into an economic turnover or storage of a trademark with the same purpose or goods marked with that trademark or designation similar to it to the extent likely to cause confusion with respect to similar goods is recognized as infringement of the right of a trademark owner.

Unauthorized use of a designation identical or similar to the extent likely to cause confusion with trademark of such owner, as a website in Internet, is recognized as infringement of a right of trademark owner as well.

[2] Remedies

Unauthorized use of a registered trademark is subject to application of administrative, civil and criminal sanctions.

According to the legislation, the court may adopt a decision by which the products that infringe an intellectual property right and have been commercialized or stocked for commercial purposes as well as materials and implements that have been especially used in the manufacture of infringing products may be withdrawn from sale in favour of the aggrieved patent owner.

The issue of provisional (for the period of consideration of the case) removal of the said goods from the civil turnover may be solved yet before adopting a decision for the purpose of securing the claims.

[3] Penal provisions

Article 191 of the Criminal Code of Kyrgyz Republic reads:

Unlawful Use of a Trademark

- (1) Unlawful use of other entity's trademark, service mark, firm-name, name of product origin, if performed repeatedly or if involving a large damage,—

shall be punishable by a fine in the amount of 200 to 400 estimated rates or 180 to 240 hours of public work, or arrest for a term of up to six months.

- (2) Unlawful use of a warning label with regard to a trademark, service mark or name of product origin not registered in the Kyrgyz Republic, if performed repeatedly or if involving a large damage,—

shall be punishable by a fine in the amount of 100 to 200 estimated rates or 120 to 180 hours of public work, or arrest for a term of up to four months.

[4] Enforcement and Customs

For the purpose of protection of objects of intellectual property (including trademarks) during their moving across the border or during moving of products in which such objects are used across the border the customs register of intellectual property objects has been created in Kyrgyz Republic. A person who is the owner of property rights to intellectual property objects according to the legislation of Kyrgyz Republic has a right to file with the specially authorized central body of executive power in the area of customs practice an application for introducing the information on the intellectual property object owned by them into the customs registry of intellectual property objects.

The term of protection of rights of a right holder by the customs authorities shall be two years of the date of including an intellectual property object into the Register of protected intellectual property objects. The said term may be extended at the request of the right holder and upon payment of a respective fee. An overall term of protection may not exceed the term of validity of a right to an intellectual property object.

[L] Well-known and Reputed Marks

Well-known trademarks are protected in Kyrgyzstan under the provisions of Article 6*bis* of the Paris Convention and the current trademark law, based on the recognition of the trademark as well known by the Chamber of Appeal. The well-known trademark is treated in the same way as if an application for registration in Kyrgyzstan has been made on the date on which the Chamber of Appeal made the decision that it was 'well known'.

[M] Trademarks and Trade Names

Legal protection of a trade name in Kyrgyzstan shall be granted on the basis of State registration.

The trade name of foreign legal entities (entrepreneurs) shall be protected without registration on the obligatory condition of its being known and used on the territory of Kyrgyzstan.

Designations shall not be subject to registration as trade name if they coincide with verbal and combined trademarks (service marks) of other owners, protected on the territory of the Kyrgyz Republic or similar to them to the extent likely to cause confusion and vice versa.

The conflicts are resolved by establishing who was the first to register a trademark or to use a trade name.

[N] Trademarks and Domain Names

Unauthorized use of designation identical or similar to the extent likely to cause confusion with trademark of such owner, as a website in Internet, is recognized as infringement of a right of trademark owner as well.

Liability for the infringement of an exclusive right of the owner of an industrial property object shall be laid upon a legal entity or an individual who has registered a domain name identical with or confusingly similar to the industrial property object in a Domain Names Database without the consent of the owner of such industrial property object.

[O] Trademarks and Appellations of Origin / Trademarks and Geographical Indications

Legal protection of an appellation of place of origin of goods in the Kyrgyz Republic shall arise on the basis of registration by one or several legal entities or physical persons according to the order established by the national or by virtue of international agreements of the Kyrgyz Republic.

The signs may not be registered as marks if they are identical or misleadingly similar to an appellation of place of origin of goods except the cases when it is included as non-protected element into a trademark registered in the name of person who has a right to use such appellation. Registration of a trademark may be declared invalid in full or in part during five years from the date of publication of the information on registration of a trademark in the Official Bulletin based on the ground that the trademark is identical with or confusingly similar to the appellations of origin protected under the law of Kyrgyzstan, except for the cases when such appellation is included as a non-protected element into a trademark registered in the name of a person who has a right to use such appellation.

[P] Restoration after unintentional lapse

In the event of registered trademark owner's failure to pay the annual fee for the maintenance of the registration in force within the prescribed term, a registration shall be revoked beginning from the first day of the year, for which the annual fee has not been paid. At the same time, the respective annual fee may be paid by the trademark owner within the next six months. In such cases, the owner of the trademarks will be obliged to pay, apart from the amount of the fee for the renewal of a trademark registration owned by them, also a fee for the restoration of the term of validity of the trademark registration which has expired. Apart from the six-month grace period, no restoration is possible.

[Q] Specific Aspects of Regional Trademark Registration

Not applicable in this jurisdiction.

[R] Specific Aspects of International Trademark Registration

Kyrgyzstan is a member of the Madrid Union Concerning the International Registration of Marks. Since 17 June 2004, it is also a party to the Madrid Protocol. Consequently, it is possible for those applicants being entitled to benefit from the Madrid Agreement or Protocol to obtain trademark protection in the Kyrgyz Republic through filing of an international trademark application under the Madrid System designating Kyrgyzstan.

Kyrgyzstan has made Declarations for payment of individual fees and for non-recognition of licenses recorded in the international register.

[S] Fees

The document confirming the payment of a fee for filing an application, conducting a preliminary application, examination of a sign, applied for registration, shall be provided together with an application or within two months as of the date of filing of an application with the Patent Office. In case of submitting of the said document after filing an application, the amount of the fee shall be increased by 20% of the sum which has not been paid.

[1] Table of official fees

	USD
Filing an application for registration of a trademark, conducting preliminary and formal examinations:	
– one international class	365
– each additional class	+175
Registration, publication and issuance of a certificate for:	
– a trademark in black and white	265
– a trademark in colours	300
Filing an application for registration of a trademark and conduction of preliminary examination in accordance with provisions of Madrid Agreement on International Registration of Marks	50

[T] Transitional Provisions

No relevant legislation in this jurisdiction.

[U] Specific Trademark Issues

No relevant legislation in this jurisdiction.

[V] Governmental Websites

- <http://patent.kg>

PART 3 UTILITY MODELS

§3.01 SUMMARY

[A] Duration of Registration

- 5 years from the filing date, with possibility of extension for 3 more years.

[B] Registrable / Not Registrable

- A utility model is patentable if it is new and industrially applicable.

[C] Novelty

- Absolute (worldwide) novelty applies.
- A 6-month grace period preceding filing/priority applies.

[D] Filing Requirements and Application Procedure

- Filing languages: application for the grant of a patent is submitted in Kyrgyz or Russian language; description in any language, claims in Kyrgyz or Russian language
- Language of translation: Kyrgyz or Russian
- Time limit for filing translation: 3 months
- Utility models are registered after formal and provisional examination.

[E] Governmental Websites

- <http://patent.kg>

§3.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention (International Union), 1883–1967, effective from 25 December 1991;
- WIPO Convention, 1967, effective from 25 December 1991;
- Patent Cooperation Treaty, 1970, effective from 25 December 1991;
- Strasbourg Agreement Concerning the International Patent Classification, 1971, effective from 10 September 1999;
- Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (Budapest Union), 1977, effective from 17 May 2003;
- Eurasian Patent Convention, 1994; and
- Marrakesh Agreement Establishing the World Trade Organization, Annex 1C: Trade-Related Aspects of Intellectual Property Rights (TRIPS), effective from 20 December 1998.

[2] Laws

- Patent Law No. 8 as of 14 January 1998, revised on 23 March 2020.

The law governs patent protection of inventions, utility models and industrial designs.

[B] Duration of Registration

The duration of a utility model registration is five years from the filing date with extension as of right for three more years, for a total duration of eight years.

[C] Requirements for Renewal

The annuities are paid beginning from the first year of issuance.

The document confirming the payment of the maintenance fee for the first year of validity of the utility model shall be provided together with the document confirming the payment of an official granting fee.

The document confirming the payment of the maintenance fee for each subsequent year of the validity of the utility model shall be provided within the last two months of the current year of the validity of the utility model.

The document confirming the payment of the maintenance fee for any year of the validity of the utility model may be provided within six months as of the date of expiration of the prescribed term. In this case, the amount of the fee shall be increased by 50%.

[D] Registrable / Not Registrable

Utility models cover devices. A utility model is registrable if it is new and industrially applicable.

The following shall not be deemed as utility models:

- (1) Scientific theories and methods of mathematics.
- (2) Methods of organization and management of economy.
- (3) Signs, schedules and rules.

- (4) Methods of performance of mental activities.
- (5) Algorithms and computer programs as such.
- (6) Drafts and schemes for planned structures, buildings and territories.
- (7) Decisions regarding only the appearance of articles aimed for satisfaction of aesthetic needs.
- (8) Integrated circuits topography.
- (9) Varieties of plants and breeds of animals.
- (10) Decisions contradicting with public interests, principles of humanity and morals, hazardous to the environment.
- (11) Methods, substances, strains of microorganisms, cell cultures of plants and animals, and their application for a new purpose.

[E] Novelty

Absolute (worldwide) novelty applies.

A utility model is new if it supersedes the prior art.

[1] Grace period

A novelty grace of six months preceding filing/priority applies.

[F] Ownership and related rights

[1] Applicant

Individuals or legal entities are entitled to apply for a utility model registration.

Under the law of Kyrgyz Republic, an inventor or employer of the inventor, their assignee, including the person who obtained a respective right by way of transfer has a right to apply for a patent.

The transfer of a right for obtaining the patent by an applicant shall be performed by introducing a respective note into an application or into a request filed with the Patent Office of Kyrgyz Republic prior to the registration of the utility model.

No confirmation of a right to file an application by providing any document is required.

[2] Assignment

An owner of a utility model is entitled to assign their rights. An assignment must be in writing and signed by the parties.

Official registration of assignments is compulsory. An assignment becomes effective for third parties as of the date of its official registration.

Information on assignment of rights to the utility model is subject to recordal in the Register of Utility models.

An application shall be accompanied by the following documents, namely:

- an agreement (original) or an extract therefrom, certified under the laws of the country of origin of the document, in three exemplars (two of which may be copies). Each page of the agreement must be signed by the parties thereto;
- an original (duplicate) of a protection document;
- the document confirming the payment of a respective fee at a standard rate according to the tariff;

- a copy of the document confirming the inheritance right or a right to succession;
- a power of attorney in case an application is filed by the patent attorney or other representative.

The said documents shall be filed in Kyrgyz or in Russian. If the documents are provided in other language, they must be accompanied with their translation into Kyrgyz or Russian. Foreign names and business names must be provided in Kyrgyz or Russian transliteration. Liability for the correctness of transliteration is laid upon an applicant.

[3] Licenses

An owner of a utility model is entitled to give authorization (grant a license) to any person to use the utility model. A license agreement is not effective unless it is in writing, signed by the parties and registered at the Patent Office.

The license agreement shall become effective as of the date of its registration at the Patent Office, and shall be published in the Official Bulletin of the Patent Office.

In the case of an exclusive license, the licensee shall be given an exclusive right to use an object of industrial property within the limits provided in the agreement, retaining the right to use the object of industrial property with the licensor in the part, which is not transferred to the licensee.

In the case of non-exclusive license, the licensor while giving the right to the licensee to use an object of industrial property shall retain all the rights which come out from the patent, including the right to transfer the license to a third party.

A utility model owner may file an application with the Patent Office to the effect that they are granting the right to use an object of industrial property (open license) to any person under conditions established in the agreement. In this case, the fee, in order to keep registration effective, shall be reduced by 50% as of the year following the year of publication of the information about such application by the Patent Office.

[4] Pledge and Seizure

The subject of a pledge shall be constituted by the intellectual property rights.

A pledger has a right to, unless otherwise is provided for by the agreement and follows from the nature of a subject of a pledge, make use of the subject of a pledge according to its intended purpose, in particular, to derive benefits and profits from it. Furthermore, the pledger has a right to assign the subject of a pledge for the purposes of ownership, economic management or operation, to rent it or transfer to other person without compensation or otherwise to dispose of it only upon the consent of a pledgee.

An agreement which restricts the pledger's right to bequeath the pledged property shall be invalid.

A pledgee has a right to make use of the subject of a pledge transferred to them only in the cases provided for by the agreement. The reports on such use must be provided to the pledger on a regular basis. According to the provisions of the agreement, a pledger may be obliged to derive benefits and profits from the subject of pledge for the purposes of paying off primary obligations or in pledger's interests.

The relief of a pledger from the cost of a pledged property shall be made through legal proceedings, unless otherwise provided for by the Civil Code of Kyrgyz Republic or other legislative acts or by the agreement.

The pledge agreement is subject to State registration on condition that the State fee is paid. Without the registration, the pledge agreement is invalid. The information on the recordation is officially published.

[G] Filing Requirements

[1] Obligation to file first with national office

Submission of applications to foreign countries for the objects of industrial property, including utility models, created in the Kyrgyz Republic, shall be exercised after expiration of three months as of the date of file of an appropriate application with the Patent Office.

In the necessary cases, the Patent Office may allow protecting of the objects of industrial property, including utility models, in foreign countries earlier than the indicated term, after the examination of an application for the presence of information which is of the State secret has been conducted in the order established by the Patent Office.

In the event of submission of an application to foreign countries or international organizations for the object of industrial property created in the Kyrgyz Republic, with violation of the established order, the protected document for this object of industrial property shall not be provided in the Kyrgyz Republic.

[2] Minimum requirements for obtaining filing date

The date of filing of application with the Patent Office is established based on the date of submitting of the documents necessary for establishing the priority (application for the grant of a utility model, a description of an invention, etc.), or based on the date of filing of the last of the mentioned documents, if the said documents are not submitted simultaneously.

An application for the grant of a utility model shall be filed in the Kyrgyz or Russian language. The claims of the utility model, the name of an applicant and owner must be submitted in the Kyrgyz or Russian language. If other documents of the application as well as documents presented during examination of an application are submitted in the other language, the translation into Kyrgyz or Russian shall be attached.

A priority may be established based on the date on which an earlier application disclosing this utility model was filed with the Patent Office by the same applicant, provided that the application in respect of which the priority is claimed has been filed within twelve months as of the date of filing of the earlier application for the utility model. In such a case, the earlier application shall be deemed to be withdrawn.

[3] Request for registration

The applicant shall not file special request for registration of the utility model. Based on the decision on grant of a patent, the Patent Office shall carry out the official registration of a utility model by entering the relevant particulars in the Register of the Utility Models.

An application for the grant of a utility model shall be filed in the Kyrgyz or Russian language. The description of the utility model, the name of the object of industrial property, the name of an applicant and owner must be submitted in the Kyrgyz or Russian language.

If other documents of the application as well as documents presented during examination of an application are submitted in another language, the translation into Kyrgyz or Russian shall be attached; time limit for filing translation: three months as of the date of filing of an application with the Patent Office.

An application shall be filed with the Patent Office directly or forwarded by mail or by telegraph, or teleprinter, or telefax or via other similar transmission media.

An application may be filed by an applicant personally or through the patent attorney, registered in the Patent Office.

Individuals residing outside the Kyrgyz Republic or foreign legal entities or their patent attorneys are handling matters related to obtaining the patents and protection of utility models through the patent attorneys registered in the Patent Office, except for the procedures related

to determining the date of filing of the application, payment of fees, providing the copies of preceding application in case of claiming convention priority, providing the copy of application that has been filed earlier, obtaining receipts and notifications from the Patent Office with regard to the above-mentioned procedures, payment of fee for maintenance of a patent. At the same time, if other procedure is provided for by the international agreement to which Kyrgyz Republic is a party, such procedure shall apply.

[4] Appointment of Representative

Foreigners not resident in Kyrgyzstan must appoint an agent.

[5] Power of Attorney / Designation of creator / Other documents

The power of attorney issued in Kyrgyz Republic for representation before the Patent Office is executed in simple written form and does not require notarization. The power of attorney issued outside the Kyrgyz Republic is executed according to the rules and for the period provided for by the legislation of the country of its issuance.

[6] Priority

Convention priority may be claimed. Priority document must be filed within four months from filing the application. Translation is required, time limit for filing translation: three months; language of translation: Kyrgyz or Russian.

If due to circumstance beyond the applicant's control, the application claiming the convention priority could not be filed within the specified time period, the latter may be extended but for no more than two months.

[7] Allowable language(s) upon filing / Language(s) of procedure

Applications must be filed in Kyrgyz – or Russian languages.

The claims of the utility model, the name of the object of industrial property, and the name of an applicant and owner must be submitted in the Kyrgyz and Russian language.

Other documents of the application as well as documents presented during examination of an application may be submitted in the other language (the translation into Kyrgyz or Russian shall be attached).

Time limit for filing translation: three months.

The language of the procedure is Kyrgyz or Russian language.

[8] Description

The specification may initially be filed in any language, provided that a translation in Kyrgyz or Russian is filed within three months.

[9] Claims

The claims of the utility model shall be drafted in Kyrgyz and Russian languages.

In case the other application documents and the documents submitted in the course of conducting the examination of application are presented in another language, they should be accompanied with their translation into Kyrgyz or Russian language.

The translation of the documents into Kyrgyz or Russian language shall be furnished by an applicant within three months as of the date of filing of the application with the Patent Office.

Multiple dependency of claims is permitted upon payment of extra fees.

[10] Abstract

An application for a utility model shall contain an abstract. The abstract serves for an informative purpose and constitutes a brief presentation of the contents of the description of the utility model including the title of the utility model, description of the state of the art to which the utility model relates, and (or) its intended purpose if it is not clear from the title thereof, the description of the subject matter of the utility model with indication of the technical result to be achieved. The subject matter of the utility model is characterized in the abstract by free presentation of the claims in the manner when all essential features of each independent claim are preserved.

[11] Drawings

An application for a utility model shall contain drawings and other materials if they are necessary for understanding the subject matter of the utility model. The drawings and other explanatory materials may be executed in the form of graphic materials (drawings themselves, charts, graphs, orthographic epures, figures, oscillograms, etc.), photographs, tables and diagrams.

Figures are provided in the event if the description cannot be illustrated by the drawings or charts. In exceptional cases, photographs may be provided.

[12] Payment of fees

The utility model application shall be accompanied by proof of payment of the prescribed fee.

Patent annuities are due after grant and are paid as of the first annuity for utility model patents. Late payment is possible with a 50% fine.

[H] Application Procedure

[1] Filing Authority

An application for a registration of a utility model shall be filed in the State Intellectual Property Service of the Kyrgyz Republic – the Patent Office.

[2] Online filing

Not applicable in this jurisdiction.

[3] Examination

For utility models, the law provides for formal and provisional examination. There is no official search for prior patents or utility model registrations, and there is no substantive examination. An applicant and third persons have a right to file requests for conducting information search based on application for a utility model in order to determine the state of the art in comparison to which the patentability of a utility model is assessed.

[4] Amendments and corrections

During two months from the date of receipt of the application, an applicant shall have the right to introduce amendments and specifications to the documents without changing the essence of the object of an industrial property.

Such amendments and specifications may be submitted on the applications for the objects of industrial property and after expiration of the indicated term, under condition of payment of the fee, but no later than the decision to grant a patent is made.

[5] Registration

Upon conducting of a provisional examination of an application for a utility model, a decision on the grant of a utility model patent is taken with regard to the said application. In such a decision, an applicant is notified about a positive result of the provisional examination and about determining the priority of a utility model.

The official registration of a utility model shall be carried out, provided that the receipts for payment of the official duty for grant and the official publication fee have been submitted. The document confirming the payment of a fee shall be provided within two-month period as of the date of the receipt of a decision on the grant of a patent by an applicant.

The document confirming the payment of a fee may be provided within three months as of the date of expiration of the above-mentioned two-month term. In this case, the amount of the fee shall be increased by 50%. In case of failure to pay the fee, the decision on the grant of a patent shall be cancelled.

[6] Accelerated registration

An accelerated preliminary examination of an application may be conducted at the request of an applicant and in the event if a respective fee is paid.

[7] Opposition / Re-examination

A utility model may be opposed at any time during its term by any third party before the court or the Board of Appeals of the Patent Office. A decision on the grant of a utility model may be opposed before the Board of Appeals by the third party. Such opposition shall be accompanied by the proof of payment of the prescribed fee. However, the time limit for filing such opposition is not specified.

A decision of the Board of Appeals may be opposed at a court.

[8] Appeal

The applicant may appeal against a decision for preliminary examination before the Board of Appeals within two months from the date of receipt of such decision.

An appeal shall be considered by the Board of Appeal within the two-month term as of the date of its receipt.

A decision of the Board of Appeals may be appealed against in a court within six months as of the date of receipt of such decision.

[9] Unity of creation

An application for a utility model shall relate to one utility model only or to a group of the utility models so linked as to meet the requirement of unity of the utility model.

In case if it is established that the requirement of the unity of the utility model is violated, an applicant is suggested to notify within a two-month period which utility model should be considered, and to introduce the respective rectifications in the application materials.

If an applicant fails to notify within the two-month period of the date of receipt of notification on violation of the requirement on the unity of the utility model which of the utility models should be considered, and does not introduce rectifications in the application materials, the utility model mentioned in the claims first shall be considered.

[10] Divisional applications

Other solutions included in the materials of the initial application may be executed as divisional applications.

[11] Branched-off applications

Not applicable in this jurisdiction.

[12] Conversion

It is possible to convert a utility model application into a patent application and vice versa.

[13] Publication / Public File Inspection

The Patent Office publishes in its Official Bulletin the particulars of utility models, provided that the granting and registration fees have been paid within two months from the date of receipt of a granting decision.

[14] Withdrawal to prevent publication

The applicant shall have the right to withdraw an application at any time before the date of receiving the decision on granting a patent.

[I] Nullity and Revocation

A utility model owner may at any time revoke their utility model fully or in part by filing a relevant statement of revocation with the Patent Office.

A utility model shall be revoked in the event of failure to pay the applicable annual fee for maintenance of the registration in force within the prescribed term.

A utility model may be cancelled at any time during its term by any third party before the court or the Board of Appeals of the Patent Office.

A utility model registration may be declared invalid by the court in the following cases: the utility model does not meet the requirements of patentability; the claims contain features of the utility model which were not present in the application as filed, etc.

[J] Use Requirement

Working of a utility model is compulsory in Kyrgyz Republic. If the utility model is not used or is insufficiently used during a period of three years after the publication of patent, or from the date when the last use was terminated, any person may obtain the right to use the utility model based on a court decision in case where the owner refuses to issue a license. The use of a utility model is constituted by manufacturing a product with the use of a protected utility model, application of such product, offering for sale, sale, importation and other marketing or storage of such product for said purposes.

[K] Marking

The utility model owner may use a precautionary marking with the indication of the registration number on a product or the package of a product that is the protected utility model.

Marked products have no implications for awarding compensation in case of past infringement.

[L] Infringement*[1] Infringing acts / Non-infringing acts*

The persons other than the owner of a utility model shall not have the right to use a utility model without the consent of its owner, except for the cases when such use does not constitute the infringement of rights of the owner according to the present Code or any other law.

The use of the object of industrial property protected by the utility model with failure to follow the provisions set forth by the legislation of the Kyrgyz Republic is deemed to constitute the infringement of rights conferred by the registration. In this respect, the use of the object of industrial property shall be constituted by manufacturing a product with the use of a protected object of industrial property, application of such product, importation, offering for sale, sale and other placing on the market or storage of such product for said purposes, and also by application of the method, protected by the registration.

As an infringement of rights conferred by a utility model registration shall not be treated with the following actions:

- (1) The use of the facilities containing the protected objects of industrial property in the structure of a transport facility, or upon use of such transport facility of a foreign State, which temporarily or accidentally enters the territory of Kyrgyz Republic, provided that they serve for the purposes of that transport facility.
- (2) Conducting a scientific research into or experiment on a facility containing the object of industrial property.

- (3) The use of such facilities in the events of force majeure (natural disasters, catastrophes, major accidents, etc.) with a consecutive paying the owner the corresponding compensation.
- (4) The use of facilities containing the objects of industrial property, provided that these facilities are legally introduced into civil turnover based on the rights received from the owner. In this case, the person acquiring upon authorization of the owner the facility containing the object of industrial property or manufactured involving the application of a protected method has a right to use or dispose of this facility without having to obtain an additional authorization, if not specified otherwise by an agreement.

[2] Prior user rights

The right of prior use is recognized under the Kyrgyz law.

Any natural person or a legal entity who before the date of priority of an object of industrial property, regardless from the author, has created and used on the territory of the Kyrgyz Republic a solution similar to the object of an industrial property or made the required preparations shall keep the right to use it free of charge without enlarging the scope of such use.

The right of prior use may be assigned to another natural person or legal entity but together with the production where the use of identical solution has taken place or the required preparations has been made for that purpose.

The claimed utility model since the date of publication of the information concerning application to the date of publication of the information concerning patent issue is provided by provisional legal protection in the scope of published formula but no more than the scope determined by the formula contained in the issued patent.

Provisional legal protection shall not be considered if an application was withdrawn or considered as withdrawn or if decision on the refusal in patent issue was made and the possibilities for its appeal are exhausted.

Any natural person or legal entity, using the claimed utility model within the provisional legal protection period shall pay an appropriate pecuniary compensation to the patent owner upon the grant of a patent. Size of this compensation shall be determined by the agreement between appropriate parties.

The above-mentioned paragraphs also cover the objects of industrial property since the date of placement of means containing such objects of industrial property at official or officially recognized international exhibition arranged on the territory of Member State of the Paris Convention on Industrial Property Protection, provided that an application for patent grant was filed with the Patent Office no later than six months since indicated date.

A person beginning the use of the object of industrial property since priority date but before the date of publication of the information concerning application for granting of a patent for utility model as well as information concerning registration of utility models or industrial designs must dissolve a further use at the request of an applicant. However, such person must not pay applicant's damages incurred as a result of such use. In case of failure to execute the applicant's request provided by the above-mentioned paragraph, the infringer is liable for the infringement of rights of patent owner in accordance with the Law of the Kyrgyz Republic.

[3] Remedies

Unauthorized use of a utility model is subject to application of administrative, civil and criminal sanctions.

According to the legislation, the court may adopt a decision by which the products that infringe an intellectual property right and have been commercialized or stocked for commercial purposes as well as materials and implements that have been especially used in the manufacture of infringing products may be withdrawn from sale in favour of the aggrieved patent owner.

The issue of provisional (for the period of consideration of the case) removal of the said goods from the civil turnover may be solved yet before adopting a decision for the purpose of securing the claims.

[4] Penal provisions

Article 150 of the Criminal Code of Kyrgyz Republic reads:
Violation of Patentee's Rights.

- (1) Attribution of authorship in utility model as well as coercion to co-authorship is punishable by a fine in the amount of fifty estimated rates.
- (2) The illegal use of an invention, utility model or industrial design, disclosure unauthorized by the author or patentee of the subject matter of the invention, utility model or industrial design before an official publication of information on them has been made, if a particularly great damage has been caused as result of these actions either wilfully or involuntarily, are punishable by a triple ayip or up to three years of imprisonment with disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years or with no such time limitation.
- (3) The deeds, mentioned in the paragraphs 1 and 2 of this Article, committed repeatedly, by a group of persons in collusion or by an organized group, are punishable by a triple ayip accompanied by disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years or imprisonment for the period from three to five years accompanied by disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years.

In this case, a particularly great damage is considered to be a damage which in 500 times exceeds an estimated rate, established by the legislation of the Kyrgyz Republic at the moment of committing a crime.

A triple ayip is a recovery imposed by the court in the amount of a threefold damage caused in cash or in kind.

[5] Enforcement and Customs

No customs means of protection of rights of the owner of the utility model are provided for by the legislation of Kyrgyz Republic.

[M] Restoration after unintentional lapse

The deadline missed by the applicant can be restored within 12 months upon confirmation of valid reasons and payment of fee.

In case of failure to pay an annual fee for maintaining the utility model registration in force, the registration shall be revoked. Restoration is not possible.

[N] Utility Model Application Based on International Patent Application (PCT)

It is possible to designate Kyrgyzstan in international applications for utility models filed under the PCT.

[O] Fees

The document confirming the payment of a fee for filing an application for a utility model shall be provided together with an application or within two months as of the date of filing of an application with the Patent Office. In case of submitting of the said document after filing an application, the amount of the fee shall be increased by 20%.

[1] Table of official fees

	USD
Filing an application for issuance of a patent on utility model, conducting formal examinations:	
– one utility model	20
– each additional utility model	+10
Conducting preliminary examinations:	
– one utility model	55
– each additional utility model	+20
Registration of a utility model, issuance of a patent, publication of description up to 35 pages, including subject of utility model, scheme and review	80
Each page above 35	+10

[P] Transitional Provisions

No relevant legislation in this jurisdiction.

[Q] Specific Utility Model Issues

No relevant legislation in this jurisdiction.

[R] Governmental Websites

- <http://patent.kg>

PART 4 INDUSTRIAL DESIGNS AND MODELS**§4.01 SUMMARY****[A] Duration of Registration**

- 10 years, extendable of right by 5 years for total term of 15 years.

[B] Registrable / Not Registrable

- An industrial design is registrable if it is new and original.
- An industrial design is an artistic and a structural solution which defines the appearance of an article.

[C] Novelty

- Absolute (worldwide) novelty applies.
- A 6-month grace period preceding filing/priority applies.

[D] Application Procedure

- Registration is granted after formal, provisional and substantive examination.

[E] Governmental Websites

- <http://patent.kg>

§4.02 DETAILED INFORMATION**[A] Conventions and Legislation***[1] Conventions*

- Paris Convention (International Union), 1883–1967, effective from 25 December 1991;
- WIPO Convention, 1967, effective from 25 December 1991;
- Locarno Agreement Establishing an International Classification for Industrial Designs, 1968, effective from 10 December 1998;
- The Hague Agreement Concerning the International Deposit of Industrial Designs, 1960–1967, effective from 17 March 2003, and Geneva Act 1999, effective from 23 December 2003;
- Marrakesh Agreement establishing the World Trade Organization, Annex 1C: Trade-Related Aspects of Intellectual Property Rights (TRIPS), effective from 20 December 1998; and
- Protocol on Protection of Industrial designs to Eurasian Patent Convention, 1994, ratified on 3 July 2020 and became effective on 17 March 2021 ().

[2] Laws

- Patent Law No. 8 as of 14 January 1998, revised on 23 March 2020.

The law governs patent protection of inventions, utility models and industrial designs.

[B] Duration of Registration

The duration of an industrial design patent is ten years and may be extendable as of right for five years, for a total duration of fifteen years.

[C] Requirements for Renewal

The annuities are paid only beginning from the third year of issuance.

The document confirming the payment of the maintenance fee for the first year of validity of the design shall be provided together with the document confirming the payment of an official granting fee.

The document confirming the payment of the maintenance fee for each subsequent year of the validity of the patent for an invention, industrial design or utility model shall be provided within the last two months of the current year of the validity of the industrial design or utility model.

The document confirming the payment of the maintenance fee for any year of the validity of the industrial design or utility model may be provided within six months as of the date of expiration of the prescribed term. In this case, the amount of the fee shall be increased by 50%.

[D] Registrable / Not Registrable

In the definition of the law, an industrial design is an artistic and a structural solution which defines the appearance of an article. An industrial design is registrable if it is new and original.

The following may not be protected as designs:

- (1) Designs which are a result of the function of the article.
- (2) Designs relating to constructional form with the exception of small architectural forms.
- (3) Printed matters.
- (4) Articles of unstable shape.

Designs contrary to public interest and morality may not obtain protection.

[E] Novelty

Absolute (worldwide) novelty applies.

An industrial design shall be considered new if the whole of its essential features presented in the depiction of an article (model) and in the list of essential features is not known from the information available to the public before the date of priority of the industrial design.

An industrial design shall be considered as original if its essential features determine creative character of peculiarities of the article.

[1] Grace period

The novelty grace period of six months preceding filing/priority applies.

[F] Ownership and related rights

[1] Applicant

Individuals or legal entities are entitled to apply for a design registration.

Under the law of Kyrgyz Republic, an inventor or employer of the inventor, their assignee, including the person who obtained a respective right by way of transfer has a right to apply for a patent.

The transfer of a right for obtaining the patent by an applicant shall be performed by introducing a respective note into an application or into a request filed with the Patent Office of Kyrgyz Republic prior to the registration of an industrial design.

No confirmation of a right to file an application by providing any document is required.

[2] Assignment

An owner of a design is entitled to assign their rights. An assignment must be in writing and signed by the parties.

Official registration of assignments is compulsory. An assignment becomes effective for third parties as of the date of its official registration.

Information on assignment of rights to an industrial design is subject to recordal in the Register of Industrial designs.

An application shall be accompanied by the following documents, namely:

- an agreement (original) or an extract therefrom, certified under the laws of the country of origin of the document, in three exemplars (two of which may be copies). Each page of the agreement must be signed by the parties thereto;
- an original (duplicate) of a protection document;
- the document confirming the payment of a respective fee at a standard rate according to the tariff;
- a copy of the document confirming the inheritance right or a right to succession;

- a power of attorney in case an application is filed by the patent attorney or other representative.

The said documents shall be filed in Kyrgyz or in Russian. If the documents are provided in other language, they must be accompanied with their translation into Kyrgyz or Russian. Foreign names and business names must be provided in Kyrgyz or Russian transliteration. Liability for the correctness of transliteration is laid upon an applicant.

[3] Licenses

An owner of a design is entitled to give authorization (grant a license) to any person to use the design. A license agreement must be in writing and signed by the parties.

Official registration of licenses is compulsory. A license agreement becomes effective for third parties as of the date of its official registration.

The Kyrgyz law also includes provisions concerning compulsory licenses, under which the government is entitled to authorize exploitation of industrial design for purposes related to the national defence or public interest without the consent of the patent owner.

[4] Pledge and Seizure

The subject of a pledge shall be constituted by the intellectual property rights.

A pledger has a right to, unless otherwise is provided for by the agreement and follows from the nature of a subject of a pledge, make use of the subject of a pledge according to its intended purpose, in particular, to derive benefits and profits from it. Furthermore, the pledger has a right to assign the subject of a pledge for the purposes of ownership, economic management or operation, to rent it or transfer to other person without compensation or otherwise to dispose of it only upon the consent of a pledgee.

An agreement which restricts the pledger's right to bequeath the pledged property shall be invalid.

A pledgee has a right to make use of the subject of a pledge transferred to them only in the cases provided for by the agreement. The reports on such use must be provided to the pledger on a regular basis. According to the provisions of the agreement, a pledger may be obliged to derive benefits and profits from the subject of pledge for the purposes of paying off primary obligations or in pledger's interests.

The relief of a pledger from the cost of a pledged property shall be made through legal proceedings, unless otherwise provided for by the Civil Code of Kyrgyz Republic or other legislative acts or by the agreement.

[G] Filing Requirements

[1] Request for registration

The following documents are required to file a design application:

- (1) Request for the grant of a patent in the Kyrgyz and Russian language; a list of substantial features of the design.
- (2) Representations of the design.

Applications must be filed in both Kyrgyz and Russian languages.

[2] Classification

The eighth edition of the Locarno Classification is applicable.

[3] Appointment of Representative

Foreigners not resident in Kyrgyzstan must appoint an agent.

[4] Power of Attorney

A power of attorney must be filed. No legalization is required.

[5] Priority

Convention priority may be claimed. Priority document must be filed within four months from filing the application.

If due to circumstance beyond the applicant's control, the application claiming the convention priority could not be filed within the specified time period, the latter may be extended but for no more than two months.

[6] Description

The description of the industrial design must be filed in Kyrgyz or Russian languages.

[7] Graphical representations

A set of photographs representing appearance of an article (pattern, drawing) must be filed. A drawing, scheme or chart (if necessary) must also be filed.

[8] Multiple deposits

An application for the grant of a registration for an industrial design must be related to one industrial design or a group of industrial designs so closely linked with each other that they meet the requirement of the unity of an industrial design.

The application for an industrial design may include more than ten variations of an industrial design.

[H] Application Procedure*[1] Filing Authority*

An application for a registration for an industrial design shall be filed in the State Intellectual Property Service of the Kyrgyz Republic – the Patent Office.

[2] Online filing

Not applicable in this jurisdiction.

[3] Search

At the stage of conducting a substantive examination, an informational search is carried out in respect of the industrial design applied for registration in order to determine its art and design level.

[4] Examination

The law provides for formal, provisional and substantive examination of industrial designs. Substantive examination may be requested either upon filing of an application, or within twelve months from the filing date.

Provisional examination is carried out within four months. In the course of this examination, the Patent Office checks a design as to novelty and unity, as well as whether the application documents meet formal requirements.

[5] Registration

Upon taking a decision on the grant of a design registration and in the event if the fee for the registration and grant of the patent has been paid, the Patent Office registers an industrial design in the State Register of Industrial Designs of Kyrgyz Republic, publishes the mention on the grant of a patent in the Official Bulletin and grants a registration.

[6] Opposition / Re-examination

A patent may be opposed at any time during its term by any third party before the court or the Board of Appeals of the Patent Office. A decision on the grant of a patent may be opposed before the Board of Appeals by the third party. Such opposition must be accompanied by the proof of payment of the prescribed fee. However, no time limit for filing such opposition is specified.

A decision of the Board of Appeals may be opposed at a court.

[7] Appeal

The applicant may appeal against a decision for preliminary examination before the Board of Appeals within two months from the date of receipt of such decision.

A decision on the refusal for substantive examination may be appealed against at the Board of Appeals of the Patent Office.

A decision of the Board of Appeals may be appealed against in a court within six months as of the date of receipt of such decision.

[8] Publication / Deferred Publication / Public File Inspection

The Patent Office publishes in its Official Bulletin the particulars of registrations for industrial designs, provided that the granting and registration fees have been paid within two months from the date of receipt of a granting decision.

[I] Nullity and Revocation

A registration may be cancelled at any time during its term by any third party before the court or the Board of Appeals of the Patent Office.

A registration shall be declared invalid:

- upon expiration of the term of its validity;
- in case of failure to pay the official renewal fee in due time;
- based on the application filed by the owner with the Patent Office, provided that such revocation does not violate the interests of the third persons.

A design registration shall be deemed to be invalid fully or in part based on a decision of the Board of Appeal or the court's decision which came into force, in the case where the design does not meet the requirements of registrability.

[J] Use Requirement

Working of a design is compulsory. If the design is not used during a period of three years after the grant of a registration, any person may obtain the right to use the design based on a court decision in case where the owner refuses to issue a license. The use of a design is constituted by manufacturing a product with the use of a design, importation, offering for sale, sale and other marketing for said purposes.

[K] Marking

The registered owner may use a precautionary marking with the indication of the registration number on a product or the package of a product that has been manufactured with the use of the registered industrial design.

Marked products have no implications for awarding compensation in case of past infringement.

[L] Infringement*[1] Infringing acts / Non-infringing acts*

The use of the object of industrial property protected by the registration with failure to follow the provisions set forth by the legislation of the Kyrgyz Republic is deemed to constitute the infringement of rights conferred by the registration. In this respect, the use of the object of industrial property shall be constituted by manufacturing a product with the use of a protected object of industrial property, application of such product, importation, offering for sale, sale and other placing on the market or storage of such product for said purposes, and also by application of the method, protected by the registration.

As an infringement of rights conferred by a registration shall not be for the following actions:

- (1) The use of the facilities containing the objects of industrial property in the structure of a transport facility, or upon use of such transport facility of a foreign State, which temporarily or accidentally enters the territory of Kyrgyz Republic, provided that they serve for the purposes of that transport facility.
- (2) Conducting a scientific research into or experiment on a facility containing the object of industrial property.
- (3) The use of such facilities in the events of force majeure (natural disasters, catastrophes, major accidents, etc.) with a consecutive paying the owner the corresponding compensation.
- (4) The use of facilities containing the patented objects of industrial property, provided that these facilities are legally introduced into civil turnover based on the rights received from the owner. In this case, the person acquiring upon authorization of the owner the facility containing the object of industrial property or manufactured involving the application of a protected method has a right to use or dispose of this facility without having to obtain an additional authorization, if not specified otherwise by an agreement.

[2] Prior user rights

The right of prior use is recognized under the Kyrgyz law.

Any natural person or a legal entity who before the date of priority of an object of industrial property, regardless from the author, has created and used on the territory of the Kyrgyz Republic a solution similar to the object of an industrial property or made the required preparations shall keep the right to use it free of charge without enlarging the scope of such use.

The right of prior use may be assigned to another natural person or legal entity but together with the production where the use of identical solution has taken place or the required preparations has been made for that purpose.

The claimed industrial design since the date of publication of the information concerning application to the date of publication of the information concerning patent issue is provided by provisional legal protection in the scope of published formula but no more than the scope determined by the formula contained in the issued patent.

Provisional legal protection shall not be considered if an application was withdrawn or considered as withdrawn or if decision on the refusal in patent issue was made and the possibilities for its appeal are exhausted.

Any natural person or legal entity, using the claimed industrial design within the provisional legal protection period, shall pay an appropriate pecuniary compensation to the patent owner after patent getting. Size of this compensation shall be determined by the agreement between appropriate parties.

The above-mentioned paragraphs also cover the objects of industrial property since the date of placement of means containing such objects of industrial property at official or officially recognized international exhibition arranged on the territory of Member State of the Paris Convention on Industrial Property Protection, provided that an application for patent grant was filed with the Patent Office no later than six months since indicated date.

A person beginning the use of the object of industrial property since priority date but before the date of publication of the information concerning application for granting of a patent for an industrial design as well as information concerning registration of utility models or industrial designs must dissolve a further use at the request of an applicant. However, such person must not pay applicant's damages incurred as a result of such use. In case of failure to execute the applicant's request provided by the above-mentioned paragraph, the infringer is liable for the infringement of rights of patent owner in accordance with the Law of the Kyrgyz Republic.

[3] Remedies

Unauthorized use of a registered design is subject to application of administrative, civil and criminal sanctions.

According to the legislation, the court may adopt a decision by which the products that infringe an intellectual property right and have been commercialized or stocked for commercial purposes as well as materials and implements that have been especially used in the manufacture of infringing products may be withdrawn from sale in favour of the aggrieved owner.

The issue of provisional (for the period of consideration of the case) removal of the said goods from the civil turnover may be solved yet before adopting a decision for the purpose of securing the claims.

[4] Penal provisions

Article 150 of the Criminal Code of Kyrgyz Republic reads:
Violation of Owner's Rights.

- (1) Attribution of authorship in a design as well as coercion to co-authorship is punishable by a fine in the amount of 50 estimated rates.
- (2) The illegal use of an invention, utility model or industrial design, disclosure unauthorized by the author or patentee of the subject matter of the invention, utility model or industrial design before an official publication of information on them has been made, if a particularly great damage has been caused as result of these actions either wilfully or involuntarily, are punishable by a triple ayip or up to three years of imprisonment with disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years or with no such time limitation.
- (3) The deeds, mentioned in the paragraphs 1 and 2 of this Article, committed repeatedly, by a group of persons in collusion or by an organized group, are punishable by a triple ayip accompanied by disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years or imprisonment for the period from three to five years accompanied by disqualification from holding specified offices or engaging in specified types of activities for the period of up to three years.

In this case, a particularly great damage is considered to be a damage which exceeds by 500 times an estimated rate, established by the legislation of the Kyrgyz Republic at the moment of committing a crime.

A triple ayip is a recovery imposed by the court in the amount of a threefold damage caused in cash or in kind.

[5] Enforcement and Customs

No customs means of protection of rights of the owner of the patent for the industrial designs are provided for by the legislation of Kyrgyz Republic.

[M] Restoration after unintentional lapse

The deadline missed by the applicant can be restored within twelve months upon confirmation of valid reasons and payment of fee.

In case of failure to pay an annual fee for maintaining the design registration in force, the registration shall be revoked. Restoration is not possible.

[N] Specific Aspects of Regional Design Registration

Eurasian patents on Industrial designs will be validated in Kyrgyzstan. Kyrgyzstan is ratified a Protocol on Protection of Industrial designs to the Eurasian Patent Convention and an application for a Eurasian Patent may be filed to cover Kyrgyzstan. The procedure would be similar to procedure on registration of Eurasian patent on invention.

[O] Specific Aspects of International Design Registration

In 2003, Kyrgyzstan has joined the Hague Agreement Concerning International Registration of Industrial Designs (Hague Act of 28 November 1960 and Geneva Act of 2 July 1999). Accordingly, the international registration of industrial designs may be effective in Kyrgyzstan, based on the mentioned acts and based on the Instructions of the Act of Geneva of the said Hague Agreement.

[P] Design and Copyright Protection

Copyright protection begins when a copyright work is actually created and fixed in a tangible form. To benefit for the protection, no formal requirements should be met, that is, no formalities are required for arising and further exercising the copyright.

At the same time, the property right to an industrial design is conferred by a patent which is granted for an industrial design meeting such criterion of patentability as novelty.

Although the copyright is mostly concerned with aesthetic creations, the prior copyright may prejudice the novelty of an industrial design as far as both copyrighted work and industrial design refers to the creative activity and one of the purposes of the design protection is stimulation of the design element in the production.

In order to defend a person's copyrights, for which no respective certificate has been issued, in the event of the conflict with an owner of a patent to an industrial design, it is necessary to submit due and strong evidence of priority in creating an object of copyright protection.

[Q] Fees

Annuities are due after grant and are paid as of the first annuity. Late payment is possible with a 50% fine.

[1] Table of official fees

	USD
The fees for filing an application for a patent (for an industrial) design with conducting a formal examination:	
– one variant of an industrial design	40
– the variants from the second up to and including the tenth	20
– variants over ten	25
The fees for conducting a preliminary examination of:	
– one variant of an industrial design	40
– every variant of an industrial design over one	+20
– every variant of an industrial design over ten	+20

The fees for conducting a substantive examination of:	
– one variant of an industrial design	150
– every variant of an industrial design over one	+75
– every variant of an industrial design over ten	+160
The State registration, granting of the registration, publishing of the official data on registration	120

[R] Transitional Provisions

No relevant legislation in this jurisdiction.

[S] Specific Industrial Design and Model Issues

No relevant legislation in this jurisdiction.

[T] Governmental Websites

- <http://patent.kg>

