

On Trademarks, Service Marks, Geographical Indications and Appellations of Origin

Unofficial translation

Law of the Republic of Kazakhstan of July 26, 1999 No. 456. The heading is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Unofficial translation

Footnote. The heading is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Footnote. Throughout the text, the words “owner of trademark or” shall be replaced by the words “owner (copyright holder) of trademark or owner” in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Footnote. The entire text shall be amended in Kazakh, the text in Russian shall not change in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

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

Footnote. Preamble as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 1. General provisions

Article 1. Basic definitions used in this Law

The following basic definitions are used in this Law:

1) exclusive right means a property right of the owner to use the trade mark or the appellation of origin by all means at his own discretion;

1-1) marks that are confusingly similar means similar signs or symbols that differ in single elements and are associatively perceived by the consumer as identical;

1-2) identical trademarks means signs and symbols that coincide in all elements;

1-3) goods or services of the same kind means goods or services performing the same function and relating to the same kind (sort) that may cause by consumer the idea of being produced by the same manufacturer in case of using the identical or similar trademarks;

2) bulletin means an official periodical on the protection matters of trademarks and appellations of origin;

3) geographical indication - a designation that identifies a product originating from the territory of a geographical object, a certain quality, reputation or other characteristics of which are largely related to its geographical origin. At least one of the stages of goods production that has a significant impact on the formation of its characteristics must be carried out on the territory of this geographical object;

4) well-known trademark - a designation used as a trademark, or a trademark, recognized as well-known by the decision of the authorized body, based on the evidences of interested persons;

4-1) Madrid Agreement means Madrid Agreement Concerning the International Registration of Marks of April 14, 1891;

4-2) protocol to the Madrid Agreement – the protocol to the Madrid Agreement on the international registration of marks dated June 28, 1989;

5) an applicant - a legal entity or an individual who has filed an application for registration of a trademark or for registration and granting the right to use a geographical indication and an appellation of origin;

6) patent attorneys means citizens of the Republic of Kazakhstan who are entered to represent individuals and legal entities in the competent authority and expert organization under the legislation of the Republic of Kazakhstan;

6-1) Singapore Treaty means Singapore Treaty the Law of Trademarks, of March 27, 2006;

7) International Classification of Goods and Services means a classification confirmed by the Nice Agreement of June 15, 1957 with subsequent amendments and additions;

8) trademark, service mark (hereinafter – trademark) means a sign registered according to this Law or protected without registration by virtue of the international agreements to which the Republic of Kazakhstan is a party, serving to distinguish goods (services) of certain legal entities or individuals from goods (services) of the same kind of other legal entities or individuals;

9) use of a trademark, geographical indication and appellation of origin - placement of a trademark, geographical indication and appellation of origin on goods and in the provision of services in respect of which they are protected, on their packaging, manufacturing, use, import, storage, offer for sale, sale of goods with the designation of a trademark, geographical indication and appellation of origin, the use in signboards, advertising, printed matter or other business documentation, as well as their other introduction into circulation;

10) an owner (a copyright holder) of a trademark or owner of the right to use a geographical indication and an appellation of origin - an individual or a legal entity that has the exclusive right to a trademark or exclusive right to use a geographical indication and an appellation of origin in accordance with this Law;

11) appellation of origin is a designation representing or containing a modern or historical, official or unofficial, full or abbreviated name of a country, locality, settlement or other geographical object, including such a name or a derivative of such a name and has become known as a result of its use in relation to goods, the special properties of which are exclusively or mainly determined by the natural conditions and (or) human factors characteristic of a given geographical object. On the territory of this geographical object, all stages of the production of goods, having a significant impact on the formation of special properties of the goods should be carried out;

12) collective trademark means a trademark of association (union) or other group of legal entities and (or) individual entrepreneurs (hereinafter – the Association) serving to designate the manufactures or distributed goods (services) with the common qualitative or other characteristics.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); as amended by the laws of the Republic of Kazakhstan of 10.07.2012 No. 34-V (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 2. Legislation of the Republic of Kazakhstan on Trademarks, Service Marks, Geographical Indications and Appellations of Origin

Footnote. The heading is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. The legislation of the Republic of Kazakhstan on trademarks, service marks, geographical indications and appellations of origin consists of the Civil Code of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. Where the international agreement ratified by the Republic of Kazakhstan sets other rules than those laid down by this Law the rules of such international agreement shall be applied.

Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 3. Authorized state body in the field of protection of trademarks, service marks, geographical indications and appellations of origin

Footnote. The heading is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. The authorized state body (hereinafter - the authorized body) is a state body determined by the Government of the Republic of Kazakhstan and carrying out state regulation in the field of protection of trademarks, service marks, geographical indications and appellations of origin.

2. The competence of the authorized body shall include:

1) participation in the implementation of state policy in the field of legal protection of trademarks, geographical indications and appellations of origin;

2) development and approval of:

rules for the examination of applications for trademarks, geographical indications and appellations of origin;

rules for the registration of trademarks, geographical indications and appellations of origin in the State register of trademarks, the State register of geographical indications and the State register of appellations of origin and the issuance of security documents and their duplicates, termination of registration and its invalidation;

rules for registration in the State register of trademarks of the transfer of exclusive rights, granting the right to use a trademark;

the rules for providing extracts from the State register of trademarks, the State register of geographical indications and the State register of appellations of origin;

rules for consideration of objections by the appeal board;

rules for examination of applications for trademarks in accordance with international treaties ratified by the Republic of Kazakhstan;

provisions on attestation commission;

provisions on the appeal board;

provisions on the appeal commission;

provisions on the commission for recognition of a trademark as well-known in the Republic of Kazakhstan;

3) determining the procedure for publishing of information in the bulletin, related to the registration of trademarks, geographical indications and appellations of origin;

4) attestation of persons claiming to be a patent attorney, their registration in the register of patent attorneys, exclusion from the register of patent attorneys, invalidation of the certificate of a patent attorney and cancellation of information in the register of patent attorneys;

5) organization of the activities of the attestation commission, appeal board, appeal commission and commission for recognition of a trademark as well-known in the Republic of Kazakhstan;

6) performance of other powers provided for by this Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan of 09.07.2004 No. 586; as amended by the laws of the Republic of Kazakhstan of 02.03.2007 No. 237 (the act shall be entered into force since the day of its official publication); of 05.07.2011 No. 452-IV (the act shall be entered into force since 13.10.2011); of 12.01.2012 No. 537-IV (the act shall be entered into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (the act shall be entered into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 3-1. Expert organization

1. An expert organization, established by the decision of the Government of the Republic of Kazakhstan in the legal form of a republican state enterprise on the basis of economic management, subordinate in its activities to the authorized body, shall:

1) conduct examination of applications for trademarks and appellations of origin of products;

2) register trademarks and appellations of origin of products in the State register of trademarks and the State register of appellations of origin of products and issue security documents and their duplicates, terminate the registration and invalidate it;

3) register in the State register of trademarks the transfer of exclusive rights, the granting of the right to use a trademark;

4) maintain the State register of trademarks and the State register of appellations of origin of products, the bulletin and post them on its Internet resource;

5) provide extracts from the State register of trademarks and the State register of appellations of origin of products;

6) publish information in the bulletin, relating to the registration of trademarks and appellations of origin of products;

7) search for information of registered trademarks and appellations of origin of products based on requests from interested parties;

8) consider applications for trademarks and appellations of origin of products in accordance with international treaties, ratified by the Republic of Kazakhstan;

9) carry out other activities not prohibited by the legislation of the Republic of Kazakhstan.

2. An expert organization, in agreement with the authorized body, shall approve prices for services in the field of protection of trademarks, appellations of origin of products, provided

that the costs, incurred by the organization for their rendering, are fully reimbursed, the break-even of its activities and financing from its own income.

Footnote. Chapter 1 was completed with Article 3-1 according to the Law of the Republic of Kazakhstan of 09.07.2004 № 586; as amended by the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 2. Legal protection and terms for registration of trademark

Article 4. Legal protection of trademarks

1. The legal protection of trademarks in the Republic of Kazakhstan shall be granted on the basis of their registration in accordance with the procedure established by this Law as well as without registration in virtue of the international agreements of the Republic of Kazakhstan

2. Legal protection of trademarks shall be granted to individuals or legal entities.

The exclusive right to a trademark shall arise from the date of registration of a trademark in the State register of trademarks.

3. The right to a trademark shall be certified by a certificate and shall be confirmed by an extract from the State register of trademarks.

The certificate form shall be established by the authorized body.

4. The owner of the trademark shall have the executive right to use and dispose the trademark he owns in regard to the goods and services specified in the certificate. No one may use the trademark protected in the Republic of Kazakhstan without the consent of owner thereof.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 5. Designations registered as a trademark

1. Graphic, verbal, letter, numerical, three-dimensional and other designations or combinations of designations allowing to distinguish goods and services of certain parties from similar good and services of other parties may be registered as a trademark.

2. Trademark can be registered in any color or color combination.

Article 6. Statutory grounds for refusal of registration of a trademark

1. It is not allowed to register as trademarks of designations that do not have a distinctive ability or consist only of elements:

1) entered into common use for marking goods (services) of the particular kind;

- 2) are generally accepted symbols and expressions;
- 3) indicate the sort, quality, quantity, character, purpose, value of goods as well as place and time of their manufacture or distribution;
- 3-1) are international unpatentable names of pharmaceutical products;
- 4) *excluded by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication);*
- 5) *excluded by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication);*
- 6) have the direct descriptive connection with goods or services that they are used to mark ;
- 7)-13) *excluded by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication);*

The mentioned designations may be used as unprotected elements of a trademark if they do not take the dominated place.

These designations may be registered as a trademark if, as of the date of filing the application, the designation has acquired distinctive ability as a result of use. Distinguishing ability refers to the characteristics of designations that allow to distinguish goods (services) of some individuals and (or) legal entities from similar goods (services) of other individuals and (or) legal entities.

2. The designations reproducing armorial bearings, flags and symbols, abbreviated and full names of international organizations and their official signs, flags and symbols, hallmarks of control, warranty or assay, stamps, Olympic logos, awards and other honorary signs as well as designations that are confusingly similar to such signs may not be registered as trademarks.

Such designations may be used as unprotected elements if the designation does not consist only of them and if there is consent of the appropriate authorized body or their owner thereof.

3. The registration of designations as trademarks or their elements is not allowed if they:

1) which are false or capable of misleading with respect to a product or its manufacturer, service or person providing a service, as well as names of geographical objects that may be misleading with respect to the place of production of the product;

2) formally indicate the real place of good manufacture but give a wrong impression regarding the origin of good from another territory;

3) constitute or contain the names of geographic locations identifying mineral waters, wines or spirits, for marking such goods not originating from this place as well as if the translation is used or the designation is accompanied by the expressions like “of kind”, “of sort”, “like” or others;

4) contrary to the public interest, humanity and morality principles.

Footnote. Article 6 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its

first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 7. Other grounds for refusal of registration of a trademark

1. The designations may not be registered as trademarks that are identical or confusingly similar to:

1) with trademarks registered in the Republic of Kazakhstan and protected by international treaties with an earlier priority in the name of another person in respect of similar products or services or with identical trademarks of the same person in relation to the same products or services, except for the trademarks the registration of which is recognized as invalid or which is terminated in accordance with Chapter 6 of this Law;

2) trademarks acknowledged well-known in accordance with the established practice in the Republic of Kazakhstan in regard to any kind of goods and services;

3) with designations, declared for registration with an earlier priority in the name of another person in respect of similar products or services (except for withdrawn and terminated) or with identical designations of the same person in relation to the same products or services;

4) *excluded by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication);*

5) appellation of origin protected in the republic of Kazakhstan in regard to any goods unless they may be incorporated as unprotected elements of the trademark registered in the name of the owner of right to use this appellation of origin if the trademark registration is made in regard to the same goods for ascertainment of which the appellation of origin was registered.

Registration of a designation as a trademark in relation to homogeneous products or services similar to the point of confusion with any of the trademarks specified in subparagraphs 1), 2) and 3) of part one of this paragraph, shall be allowed subject to the written consent of the owner of a trademark.

If the owner is a legal entity, then a written consent must be submitted on the letterhead, signed by an authorized person and sealed with the seal of the legal entity (if any), and if the owner is an individual, then the signature must be notarized.

2. Designations shall not be registered as trademarks if they reproduce:

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

2) *(is excluded)*

3) names of works of literature, science and art, known pieces of art and their fragments widely known in the Republic of Kazakhstan as of the date of filing an application when violating the copyrights;

4) surnames, forenames, pen-names and their derivatives, portraits and facsimiles when violating personal non-property rights of these individuals, their heirs or successors as well as if these designations form part of the historical and cultural heritage of the Republic of Kazakhstan and are reproduced without permission of the appropriate authorized body.

Footnote. Article 7 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 8. Filing of application

1. The application for a trademark to the expert organization shall be filed by one applicant.

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

3. is excluded by the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Footnote. Article 8 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 9. Requirements for application on registration of trademark

Footnote. Article 9 of the title as amended by the laws of the Republic of Kazakhstan of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication) ;

1. Application shall relate to one trademark only.

2. The application must contain:

1) the request for expertise of designation specifying the applicant as well as his location or residence;

2) the designation in respect of which the application is filed;

3) the list of goods and (or) services in accordance with the International Classification of Goods and Services.

3. Application shall be accompanied by:

- 1) a copy of the document confirming the payment of the service for the examination;
- 2) a copy of the power of attorney in the case of record keeping through a representative;
- 3) statute of the collective trademark (in case of filing an application for the collective trademark) including the name of organization authorized to register the collective trademark in its name, purpose of the trademark registration, list of the parties that have right to use the trademark, list and sole characteristics or other characteristics of goods and services which will be marked with the collective trademark, terms of use, use control procedure, responsibility violation of statute provisions of the collective trademark.

4. The application and the documents attached to it shall be submitted in Kazakh or Russian. If the documents are submitted in another language, the applicant shall submit their translation into Kazakh or Russian within two months.

5. The filing date of an application shall be the date when expert organization received an application that meets requirements of paragraph 2 of this Article; in case that the mentioned documents were not submitted simultaneously the date shall be the date when the last of the submitted documents was received.

6. is excluded by the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Footnote. Article 9 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 10. Priority of trademark

1. The priority of trademark shall be determined by the filing date of application to the expert organization.

2. The priority of trademark may be determined by the filing date of the first application (applications) for trademark in a country - member to the Paris Convention for the protection of industrial property as well as in the international or regional organization provided for in it (Convention priority) if the filing of application to the expert organization was made within six months of the mentioned date. When claiming for the convention priority the applicant shall indicate number, date and country of filing of the first application and attach its certified copy.

3. The priority of trademark placed on the showpieces displayed at the officially recognized international exhibitions may be determined by the date of the open display of the

showpiece at the exhibition (exhibition priority) if filing of the application for trademark to the expert organization is made within six months of the mentioned date.

4. The applicant wishing to exercise the right of convention or exhibition priority shall state this fact and submit the relevant documents confirming the legitimacy of this claim on filing an application for trademark or within two months of the date when the expert organization has received the application.

5. In case of a divided application the priority for each application is determined by the priority date of the first application.

The priority for the divided applications is determined by the priority date of the original application of the same applicant; in case there is a right to determine the earlier priority by the original application the priority is determined by the date of this priority if as of the date of filing the divided application the original application is not revoked and not considered as revoked and the divided application was filed before rendering the decision on the original application.

6. The multiply priority of trademark in regard to different goods shall be determined upon the request of the applicant if several his applications for the designation in regard to various goods are available.

Footnote. Article 10 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication).

Chapter 3. Trademark examination

Article 11 The procedure for conducting an examination of an application

1. Examination of an application shall be carried out in stages:

1) preliminary examination - within one month from the date of filing the application;
2) full examination, during which the compliance of the claimed designation with the requirements established by Articles 6 and 7 of this Law shall be checked, within seven months from the date of filing the application.

2. At any stage of the examination, the expert organization shall have the right to request additional materials, which must be submitted within three months from the date of sending the request to the applicant.

If the applicant fails to submit additional materials within the specified period or requests to extend the specified period, the proceedings shall be terminated and the application shall be considered withdrawn.

3. Information on the progress of consideration of the application shall not be provided to third parties, except for the cases established by the laws of the Republic of Kazakhstan.

Footnote. Article 11 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 11-1. Publication of information about application

1. Within five working days from the date of completion of the preliminary examination, the information about the application shall be published weekly in the bulletin.
2. Information on the submitted applications must contain the following information:
 - 1) image of the claimed designation;
 - 2) information about the applicant, including the address of the applicant and (or) his representative;
 - 3) a list of products (services) in respect of which registration of the mark is requested;
 - 4) the number and date of filing the application to the expert organization;
 - 5) the country, number and date of filing of the first application, if a convention priority is established;
 - 6) reference to a collective trademark.

Footnote. Chapter 3 shall be supplemented by Article 11-1 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 11-2. Objections to the registration of a designation as a trademark

1. Any interested person within one month from the date of publication of information about the application shall have the right to file an objection to the registration of the claimed designation as a trademark with the expert organization on the grounds provided for in Articles 6 and 7 of this Law.
2. The expert organization sends the applicant a notification of the received objection (objections) within five working days from the date of its (their) receipt with a copy of the filed objection (objections) attached.
3. The applicant shall have the right to express his/her written position regarding the filed objection (objections) to the registration of the claimed designation as a trademark within three months from the date of sending him/her the notification provided for in paragraph 2 of this Article.
4. The expert organization, taking into account the objection (objections) of the interested person (interested persons) and the position of the applicant, shall issue an appropriate expert opinion.
5. The provisions of subparagraphs 4) and 5) of Article 13 of this Law shall not be applied to the period provided for in paragraph 3 of this Article.

Footnote. Chapter 3 is supplemented by Article 11-2 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 12. Decisions based on the results of examination of an application

1. According to the results of the preliminary examination, the applicant shall be sent a notification on the acceptance of the application for consideration or termination of office work no later than one month from the date of filing the application.

2. If the application is accepted, an expert organization shall carry out a full examination, based on the results of which an expert opinion on registration, preliminary partial registration or preliminary refusal to register a trademark shall be sent to the applicant.

The applicant shall have the right, within three months from the date of sending him a preliminary expert opinion on the refusal or partial registration, to submit a reasoned objection, based on the results of which the expert organization makes a final opinion within three months from the date of receipt of the objection.

Based on the final opinion, the expert organization shall make a decision on registration, partial registration or on refusal to register a trademark.

3. The decision on registration or partial registration of a trademark before it is entered in the State register of trademarks may be reviewed in connection with the identification of an application with an earlier priority.

4. The applicant shall pay for the services of an expert organization for the registration of a trademark within three months from the date of sending him a notification of a decision made on registration or partial registration. If a document confirming the payment for the specified service is not provided, the application for a trademark shall be recognized as withdrawn and the record keeping on it ceases.

5. In case of disagreement with the final opinion, the applicant may file an objection to the authorized body within three months from the date of sending this opinion to him. The objection shall be considered by the appeal board within four months from the date of its receipt by the authorized body.

Footnote. Article 12 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 13. Rights of the applicant

The applicant has the right to:

- 1) revoke the application at any stage of examination;
- 2) participate in treating the questions arising in the course of examination of the application;
- 3) complete, specify or correct the materials of the application without changing them substantively until the end of full examination;

3-1) request for dividing the application at any stage of its consideration until the end of examination arranging goods and services listed in the original application between the divided applications;

4) apply for extension of the time limit for submitting an answer for request or filing an objection but not for longer than six months;

5) apply for restoration of the expired time limit but not later than two months from the expiration of the missed time limit;

6) get acquainted with the material cited against his application;

7) apply for the suspension of procedure due to filing an objection to the Appeal Board;

8) apply for the assignment of the right to obtain a trademark to another person before registering the trademark in the State register of trademarks;

9) to amend the name and address of the applicant prior to registration of a trademark in the State register of trademarks.

Footnote. Article 13 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 3. Registration of the trademark

Article 14. State Register of Trademarks

1. Information on registration of a trademark shall be entered into the State register of trademarks when the services of an expert organization for registration of a trademark are paid.

Information entered in the State register of trademarks must contain:

1) an image of a trademark;

2) information about its owner and (or) his representative. In relation to a collective trademark, information about owners and a list of entities entitled to use the collective trademark shall be indicated;

3) the number and date of registration of the trademark;

4) a list of products (services) in respect of which a trademark is registered;

5) the number and date of filing the application to the expert organization;

6) the country, number and date of filing of the first application, if a convention priority is established;

7) other information related to the registration of a trademark, including information about the disposal of the right to a trademark.

2. The State Register of Trademarks shall be public. Upon the request of the interested parties the expert organization provides an extract from the State Register of Trademarks.

3. The owner of the trademark must inform the expert organization of all changes concerning registration including information about changing his surname, forename or father's name (if relevant), residence or name and location as well as shortening the list of goods (services) in regard to which the trademark is registered without changing the registration substantively.

4. The expert organization shall, within ten working days from the date of filing the application for amendments and corresponding payment, make changes to the State Register of Trademarks specified in paragraph 3 of this Article, as well as changes to correct technical errors.

Within five working days from the date of making a change in the State Register of Trademarks, a notification of this shall be sent to the applicant.

Footnote. Article 14 as amended by the laws of the Republic of Kazakhstan of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 15. Term of the registration

1. The term of the registration of the trademark shall be ten years starting from the date of application.

2. The validity period of a trademark registration shall be renewed every time for ten years at the request of the owner filed during the last year of its validity. Information on the extension of the validity of the registration of a trademark within ten working days from the date of receipt of the application by an expert organization shall be entered into the State register of trademarks and a certificate.

3. The time limit filing the request specified in paragraph 2 of this Article may be restored upon the application of owner filed within six months of expiry of the registration validity.

Footnote. Article 15 as amended by the laws of the Republic of Kazakhstan of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 16. Publication of information on registration

Information relating to the registration of a trademark entered in the State register of trademarks, including a collective trademark, shall be published by the expert organization weekly in the bulletin, and shall also be posted on the Internet resource.

Footnote. Article 16 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 17. Terms of re-registration of trademark

The trademark that is identical or confusingly similar to the trademark which registration has expired may not be registered in the name of a person other than the previous owner for a period of one year from the date of termination of the trademark registration.

The specified condition shall be also applied in case when the owner of the trademark has refused it before expiry of registration term.

Footnote. Article 17 as amended by the laws of the Republic of Kazakhstan of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication).

Article 18. Extract from the State register of trademarks

1. Extract from the State Register of Trademarks confirms the registration of trademark, its priority, exceptional right of owner of the trademark in regard to the goods (services) specified in the State Register of Trademarks.

2. The extract form shall be established by the authorized body.

Footnote. Article 18 as amended by the laws of the Republic of Kazakhstan of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication).

Article 18-1. Recognition of a trademark as well-known

1. In the Republic of Kazakhstan, by a decision of the authorized body, a trademark, registered in the territory of the Republic of Kazakhstan or protected by international treaties, or a designation used as a trademark without its legal protection in the Republic of Kazakhstan, acquired fame as a result of active use in the Republic of Kazakhstan, may be recognized as well-known.

An application of individuals or legal entities on recognition of a trademark as well-known in the Republic of Kazakhstan shall be submitted to the authorized body.

The application must relate to one trademark or designation and contain the following:

- 1) information about the applicant indicating the place of residence or location;
- 2) an image of a trademark or designation claimed as a well-known mark;
- 3) the date from which, in the applicant's opinion, the mark became well-known;
- 4) a list of products (services) in relation to which, in the applicant's opinion, the mark has become well-known.

2. The application shall be attached with:

- 1) information confirming the well-known status of a trademark or designation;
- 2) images of a trademark or designations in the format of 8x8 centimeters in the amount of five copies;

3) a copy of the power of attorney in the case of submission of an application by a representative;

4) a document confirming the payment of the state fee for the recognition of a trademark as well-known.

An application for recognition of a trademark as well-known in the Republic of Kazakhstan shall be considered by a commission of the authorized body for recognition of a trademark as well-known in the Republic of Kazakhstan (hereinafter referred to as the commission of the authorized body).

Within five working days from the date of receipt of the application for recognition of a trademark as well-known, the compliance of this application and the documents attached to it with the requirements of this article shall be verified.

If a positive verification result is received, the expert organization shall publish information about the application in the bulletin.

After three months from the date of publication, the commission of the authorized body within two months shall consider the application and the materials attached to it, confirming the well-known status of the mark.

The applicant shall have the right to make corrections, additions and clarifications to the application materials before completion of its consideration.

If there is disagreement from the third parties, an appropriate notification shall be sent to the applicant, a response to which is submitted by the applicant before making an opinion on the results of consideration of the application.

Based on the results of consideration of the application by the commission of the authorized body, a decision shall be made to recognize the trademark as well-known or to refuse such recognition, which is sent to the owner (copyright holder) of the trademark within ten working days from the date of such a decision.

If the factual information provided by the applicant confirms the date when the mark became well-known, other than that indicated in the application, the trademark may be recognized as well-known from the actual date.

Information on the actual recognition of a trademark as well-known shall be confirmed by the results of a consumer survey conducted by a specialized independent organization on the territory of the Republic of Kazakhstan. The survey should cover cities of republican significance, the capital and at least five towns of regional significance. The total number of respondents in one locality should be at least one hundred people.

The decision to refuse to recognize a trademark as well-known shall be made if it is established that:

- 1) information is insufficient to recognize the well-known status of a trademark;
- 2) there is a trademark that is identical or confusingly similar to the applicant's trademark, which is protected or declared in the name of another person with respect to homogeneous

products, with the priority which is earlier than the date on which the applicant seeks to recognize his trademark as well-known.

The decision of the commission of the authorized body may be appealed in court.

3. A well-known trademark shall be granted a legal protection provided for by this Law.

4. The legal protection of well-known trademarks shall cease:

1) in connection with the expiration of the registration;

2) upon the application of any interested person on the early termination of legal protection of a well-known trademark in connection with the loss of the well-known status on the basis of a court decision that has entered into legal force;

3) on the basis of a court decision that has entered into legal force on canceling a decision of a commission of the authorized body.

5. Based on the recognition of the designation or trademark as well known, referred to in paragraph 1 of this article, the relevant information shall be entered into the State register of trademarks

The period of validity of a trademark recognized as well-known shall be calculated from the date of filing an application for recognition of a designation or trademark as well-known to the authorized body.

The period of validity of recognition of a trademark as well-known at the request of its owner and upon submission of information confirming the well-known status of the trademark shall be extended for a further ten-year period.

Information on the registration of a well-known trademark, its owner and subsequent changes regarding such registration shall be entered into the State register of trademarks and published in the bulletin.

The right to a well-known trademark shall be certified by a record of registration in the State register of trademarks and shall be confirmed by an extract from the State register of trademarks.

Information about the termination of legal protection of a well-known trademark shall be entered into the State register of trademarks, posted on the Internet resource of the authorized body and published in the bulletin of an expert organization.

Footnote. Chapter 4 is completed by Article 18-1 according to the Law of the Republic of Kazakhstan of 09.07.2004 No. 586; as amended by the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 5. Use of the trademark

Article 19. Conditions of use of the trademark

1. The owner of the trademark shall be obliged to use the trademark.

It shall be forbidden to restrict the use of a trademark along with another trademark, to use a trademark in an amended form, including in a different font, different color design, other form, or use in such a way that may damage the ability of a trademark to distinguish products (services) of one individuals or legal entities from homogeneous products (services) of other individuals or legal entities.

2. The entrepreneurs conducting intermediary activity have right subject to the manufacturer's consent to use their mark on the goods distributed by them along with the trademark of the manufacturer of the good as well as to place it instead of the trademark of the manufacturer.

3. The owners of the collective trademark may use their own trademarks along with the collective trademark on the goods manufactured by them.

4. Any interested person may challenge the registration of a trademark in court in connection with its non-use within three years preceding the date of filing a lawsuit in court. The statement of claim against the registration may relate to all products or their parts indicated in the certificate.

Proof of the use of a trademark shall be considered its application on the goods for which it is registered and (or) their packaging by the owner of the trademark or by a person to whom such a right has been transferred or granted on the basis of a contract in accordance with paragraphs 1 and 2 of Article 21 of this Law. The use of a trademark may be recognized as the manufacture, import, storage, offer for sale, sale of goods with the trademark designation, its use in advertising, signboards, printed publications, on official letterheads, in other business documentation, as well as in a domain name, transfer of trademark rights, including when displaying goods on exhibitions held in the Republic of Kazakhstan, as well as other introduction of it into circulation.

The evidences of use of the trademark submitted by its owner shall concern to the period of time indicated in the objection.

When making a decision on termination of registration of the trademark due to its non-use the evidences submitted by the owner that the trademark was not used because of circumstances beyond his control should be taken into consideration.

5. *Excluded by the Law of the Republic of Kazakhstan of 12.01. 2012 № 537-IV (the act is entered into force in ten calendar days after its first official publication).*

6. *is excluded by the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication);*

7. *is excluded by the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).*

Footnote. Article 19 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 537-IV (the act is entered into force since the day of its official

publication); of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 21.01.2019 № 217-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 20. Warning marking

The owner of the trademark certificate may make a warning marking next to the trademark in the form of the Latin letter R, or the word designations “tauar belgisi”, “trademark” or “registered trademark” indicating that the designation used is the trademark, registered in the Republic of Kazakhstan.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 21. Transfer of the exclusive right to a trademark and the right to use it

1. The exclusive right to a trademark in relation to all products (services) or a part thereof may be transferred under an assignment agreement.

The transfer of the exclusive right to a trademark shall not be allowed if it can be a cause of misrepresentation regarding the product or its manufacturer.

2. In accordance with the terms of a license agreement, an integrated business license agreement or other agreement (license agreement), any person who is not the owner (licensee) shall be entitled to use the protected trademark with the permission of the owner (licensor).

The right to use a trademark may be granted in respect of all products (services) or part thereof.

The licensee shall be entitled to use the trademark throughout the territory of the Republic of Kazakhstan, unless otherwise provided in the agreement.

The period of validity of the right to use a trademark may be extended in accordance with the terms of the agreement or by signing an additional agreement.

In case of failure to indicate the period of validity in the agreement, the period of validity of the right to use the trademark shall be five years from the date of registration of this agreement.

The license agreement must contain conditions about:

1) preservation of the quality of products (services) not lower than the quality of products (services) of the owner (copyright holder) of a trademark;

2) the right of the owner (copyright holder) of a trademark to exercise control over the quality of their products (services).

Transfer of the exclusive right to a trademark to another person shall not entail termination of the agreement.

3. The exclusive right to a trademark in relation to all products (services) and the right to its use may be pledged.

4. The agreements and additional agreements referred to in this article shall be concluded in writing and shall be subject to registration in the State register of trademarks.

5. Transfer of the exclusive right or the license agreement shall be subject to registration within ten working days following the day of receipt of the application from the interested party to the agreement.

6. Failure to comply with the written form and (or) requirements for registration shall entail the nullity of the agreement.

Amendments to the State register of trademarks in connection with the termination of the agreement or cancellation of registration on the basis of a court decision that has entered into legal force shall be carried out within one working day following the day of receipt of the application from the interested party to the agreement.

Errors of a technical nature that do not change their affiliation, nature or content may be corrected in the information about registration within one working day from the date of receipt of the application from the interested person and provided that a written notification is sent to other interested parties to the agreement.

7. Transfer of the right to a trademark shall be registered in the State register of trademarks in the manner determined by this Law.

8. The grounds temporarily preventing the registration of the transfer of the right to a trademark or the granting of the right to its use shall be:

1) the existence of a period for restoration of the terminated validity of the exclusive right to a trademark;

2) presentation of an incomplete package of documents or inconsistency of information in the submitted documents;

3) inconsistency of the information in the submitted documents with the information contained in the State register of trademarks or in the register, which is maintained in accordance with an international treaty ratified by the Republic of Kazakhstan.

In the event that the grounds specified in paragraph 8 of this article are identified, a request shall be sent to the applicant for their elimination.

From the date the request is sent, the registration period shall be suspended for three months.

10. The grounds for refusal to register the transfer of the right to a trademark or to grant the right to its use shall be:

1) the expiration of the period for restoration of the terminated period of validity of the exclusive right to a trademark;

2) the expiration of the term for elimination of grounds temporarily preventing registration;

3) receipt of an application for registration from a person who is not a party to the agreement;

4) lack of registration of the right to dispose the exclusive right to a trademark;

5) misrepresentation regarding a product or its manufacturer in case of transfer of the right to a trademark;

6) whether the party has assumed obligations that impede the granting of the right to use a trademark.

Termination of the exclusive right to a trademark shall entail the termination of the license agreement.

Footnote. Article 21 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 22. Trademark assignment when the legal entity is reorganized in the form of demerger

When the legal entity is demerged the trademark shall be assigned to the newly established legal entity to which the production of goods and services is transferred.

In case that each newly established entity keeps part of production of goods and services for which the trademark is registered the new legal entities shall be acknowledged as the trademark co-owners with their consent.

Footnote. Article 22 as amended by the laws of the Republic of Kazakhstan of 9 July, 2004 No. 586.

Chapter 5. Termination of the trademark registration

Article 23. Challenging the registration of a trademark and invalidating it

1. Registration of a trademark may be challenged and invalidated fully or partially during the whole period of validity if it was carried out in violation of the requirements established by Articles 6 and 7, except for subparagraphs 1), 2) and 3) of paragraph 1 of Article 7 of this Law, or within five years from the date of registration of a trademark, if it was carried out in violation of the requirements, established by subparagraphs 1), 2) and 3) of paragraph 1 of Article 7 of this Law. Any interested person may file an objection to the authorized body against the registration of a trademark on the grounds, specified in this paragraph.

2. Registration of a trademark may be challenged and invalidated fully or partially during the whole period of validity if it is carried out for the name of a representative of the owner of an identical or confusingly similar trademark in one of the countries- participants of the Paris

Convention for protection of industrial property without permission of the latter. The owner (copyright holder) of the trademark, registered in one of the countries-participants of the Paris Convention for protection of industrial property shall be entitled to file an objection to the authorized body against the registration of a trademark on the grounds specified in this paragraph.

3. Registration of a trademark may be challenged and invalidated fully or partially if the trademark is identical or confusingly similar in respect of similar products or services with the trade name of another person, the exclusive right to which arose in the Republic of Kazakhstan earlier than the trademark priority date.

An objection against the registration of a trademark on the grounds specified in this paragraph may be submitted to the authorized body by a legal entity whose company name is identical or confusingly similar with a trademark, registered in respect of homogeneous products or services.

4. An objection against the registration of a trademark shall be considered by the appeal board within six months from the date of its receipt. The person, who filed the objection, as well as the owner (copyright holder) of the trademark, shall have the right to participate in the consideration of the dispute.

5. The expert organization shall make an entry in the State register of trademarks on cancellation of the registration of the trademark in connection with recognition of it as invalid and publish the information about it in the bulletin and post it on its Internet resource.

If the registration of the trademark is invalid partially for certain products or services, the expert organization shall make an entry in the State register of trademarks on the cancellation of the registration of the trademark for these products or services, publish the information on the cancellation in the bulletin and place them on its Internet resource.

Footnote. Article 23 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 24. Termination of the trademark registration and its nullification

1. Registration of the trademark shall be terminated:

- 1) due to expiry of its term provided for by Article 15 of this Law;
- 2) in connection with the death of an individual, with the liquidation of a legal entity - the owner (copyright holder) of a trademark;
- 3) based on the written application by the trademark owner on refusal of it;
- 4) in case of non-use of the trademark according to paragraph 4 of Article 19 of this Law;
- 5) *Is excluded by the Law of the RK of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication).*

6) due to its identity or similarity to the point of confusion with a trademark recognized as well-known in the Republic of Kazakhstan, in the case if the use of such a trademark is able to mislead the consumer regarding the product or its manufacturer.

2. Trademark registration shall be nullified completely or partially by the decision of the Appeal Board or court on the grounds specified in paragraph 1 of Article 23 of this Law.

3. Expert organization makes an entry in the State Register of Trademarks concerning the cancellation of the trademark registration due to its termination or nullification.

Footnote. Article 24 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

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

Article 25. Legal protection of geographical indication and appellation of origin

1. Legal protection of a geographical indication and an appellation of origin in the Republic of Kazakhstan shall be granted on the basis of their registration in the manner prescribed by this Law, as well as by virtue of international treaties of the Republic of Kazakhstan.

2. The exclusive right to use a geographical indication may be granted to several persons, both jointly and independently of each other, producing goods in this geographical object, a certain quality, reputation or other characteristics of which are largely determined by its geographical origin.

The exclusive right to use the appellation of origin may be granted to several persons, both jointly and independently of each other, producing goods in this geographical object, the special properties of which are exclusively or mainly determined by the natural conditions and (or) human factors characteristic for this geographical object.

3. Registration of a geographical indication and an appellation of origin located in a foreign state shall be allowed if the indicated designations are protected as such in the country of the goods origin. Only persons whose rights to use them are protected in the country of origin of the goods may have the exclusive right to use the specified geographical indication and appellation of origin.

Footnote. Article 25 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 26. Designations registered as geographical indications and appellations of origin

Footnote. The heading of Article 26 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. A modern or historical, official or unofficial, full or abbreviated name of a country, region, locality, settlement or other geographical object, as well as a designation derived from such geographical indication and name, and their combination with the specific name of the goods, may be registered as a geographical indication and appellation of origin.

2. Is excluded by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Footnote. Article 26 as amended by the laws of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 27. Designations not registered as geographical indications and appellations of origin

1. The following designations shall not be registered as geographical indications and appellations of origin:

1) representing the names of geographical objects that can mislead about the place of production of goods;

2) formally indicating the true place of production of goods, but giving an erroneous idea that the goods originate from another territory;

3) containing the names of geographical objects that are not related to the place of production of goods;

4) previously registered as a geographical indication and appellation of origin in respect of goods of the same type;

5) identical or similar to a designation previously registered in the name of another person, if the use of such a geographical indication and such an appellation of origin of goods is capable of misleading the consumer regarding the goods, its manufacturer.

2. A designation, although representing or containing the name of a geographical object, but which has entered into general use in the Republic of Kazakhstan as a designation of a certain type of goods, not associated with a place of its production, shall not be recognized as a geographical indication and an appellation of origin and shall not be subject to registration for the purposes of its legal protection.

Footnote. Article 27 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication)

Article 28 Submission and withdrawal of an application for registration of a geographical indication and an appellation of origin and (or) granting the right to use them

1. An application shall be submitted to an expert organization for:
registration of a geographical indication and (or) granting the right to use a geographical indication (hereinafter- an application for a geographical indication);

registration of the appellation of origin and (or) granting the right to use the appellation of origin (hereinafter referred - the appellation of origin of goods).

2. An application for a geographical indication, an application for an appellation of origin may be withdrawn by an applicant (applicants) at any stage of their consideration before being entered into the State register of geographical indications, the State register of appellations of origin.

Footnote. Article 28 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 29. Requirements for an application for a geographical indication, an application for an appellation of origin

1. An application for a geographical indication must relate to one geographical indication.

An application for an appellation of origin must relate to one place of origin of the goods.

2. An application for a geographical indication must be submitted on a standard form and contain:

1) an application for state registration of a geographical indication and (or) for granting the right to such a geographical indication, indicating the applicant (applicants), as well as his (their) location or place of residence;

2) the claimed designation;

3) the type of goods in respect of which state registration of a geographical indication is requested;

4) indication of the place of origin (production) of goods (borders of a geographical object);

5) information relating to the relationship of the goods characteristics with the place of its origin (production);

6) a description of the quality, reputation and (or) other characteristics of the goods (including the source material used for its production, physical, chemical, microbiological, organoleptic or other characteristics), which are largely determined by its geographical origin;

7) a description of the method of production of goods, as well as information on the conditions of its storage and transportation, if this has a significant impact on the formation and preservation of the goods characteristics;

8) information confirming the right to carry out activities for the production of goods, if this is provided for by the laws of the Republic of Kazakhstan.

3. If a geographical object, the name of which is declared as a geographical indication, is located on the territory of the Republic of Kazakhstan, the application shall be accompanied by a conclusion of the local executive body stating that the applicant carries out at least one of the stages of production of goods that has a significant impact on formation of special properties of the goods within the boundaries of this geographical object. A document or documents confirming that a certain quality, reputation and (or) other characteristics of the

declared product are largely determined by its geographical origin shall also be attached to the application.

4. An application for an appellation of origin must be submitted on a standard form and contain the information specified in paragraph 2 of this Article, as well as a description of special properties of the goods and other characteristics (including the source material used for its production, physical, chemical, microbiological, organoleptic or other characteristics), which are exclusively or mainly determined by the natural conditions and (or) human factors characteristic for a given geographical object.

5. If a geographical object, the name of which is declared as the name of the place of origin of the goods, is located on the territory of the Republic of Kazakhstan, the application shall be accompanied by the conclusion of the local executive body stating that the applicant produces the declared goods within the boundaries of this geographical object. A document or documents confirming that the special properties of the declared goods are exceptional or mainly determined by the natural conditions and (or) human factors characteristic for this geographical object shall also be attached to the application.

6. An application for granting the right to a previously registered geographical indication and an appellation of origin located on the territory of the Republic of Kazakhstan shall be accompanied by a conclusion of the local executive body stating that the applicant manufactures goods within the boundaries of this geographical object, as well as a document confirming the presence of special characteristics and properties of the goods specified in the State register of geographical indications and the State register of appellations of origin, issued by the authorized body, to the industry of which the declared goods belong.

7. An application for a geographical indication, an application for an appellation of origin shall be accompanied by documents confirming payment for the services of an expert organization for the examination. In the case of record keeping through a representative, a copy of the power of attorney shall be attached to the application.

8. An application for a geographical indication, an application for an appellation of origin and the documents attached to them shall be submitted in Kazakh or Russian. If the documents are submitted in another language, then the applicant must submit their translation into Kazakh or Russian within one month from the date of filing the application.

Footnote. Article 29 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 8 Examination of a geographical indication and an appellation of origin

Footnote. The heading of Chapter 8 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 30. Examination procedure

1. An expert organization, within three months from the date of filing an application for a geographical indication, an application for an appellation of origin, shall conduct an examination, during which their compliance with the requirements established by Articles 26, 27 and 29 of this Law is checked.

At the request of the applicant, this period may be extended by no more than six months, provided that the request is received before the deadline for submitting a response to the request.

2. At any stage of the examination the expert organization has right to request the additional materials which shall be submitted within three months of the date of sending the request to the applicant.

In case of failure by the applicant to submit the additional materials by the specified time or the request to extend the specified time the procedure shall be terminated and the application shall be considered as revoked.

Footnote. Article 30 as amended by the Law of the Republic of Kazakhstan of 9 July, 2004 No. 586; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 30-1. Publication of information about an application for a geographical indication, an application for an appellation of origin

1. After five working days from the date of filing an application for a geographical indication, application for an appellation of origin, the information about them shall be published weekly in the bulletin.

The publication of an application for a geographical indication, an application for an appellation of origin containing materials in a foreign language, shall be made if they are translated into Kazakh or Russian.

2. Information about the filed application for a geographical indication, application for an appellation of origin must include:

- 1) the declared designation;
- 2) information about the applicant, including the address of the applicant and his/her representative;
- 3) type of goods;
- 4) indication of the place of production of goods (borders of a geographical object).

Footnote. Chapter 8 is supplemented by Article 30-1 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 30-2. Objections to the registration of a geographical indication and an appellation of origin and (or) granting the right to use them

1. Any interested person, within one month from the date of publication of information about an application for a geographical indication, an application for an appellation of origin, shall have the right to file an objection to the expert organization against the registration of the declared designation on the grounds provided for in Articles 26 and 27 of this Law.

2. The expert organization sends to the applicant a notification of the objection(s) received within five working days from the date of its (their) receipt with a copy of the filed objection(s) attached.

3. The applicant shall have the right to express his/her position regarding the filed objection (objections) within one month from the date of sending him/her the notification provided for in paragraph 2 of this Article.

4. The expert organization, taking into account the objection (objections) of the interested person (interested persons) and the position of the applicant specified in paragraphs 1 and 3 of this Article, shall issue an appropriate expert opinion.

5. The provisions of subparagraphs 4) and 5) of Article 13 of this Law shall not apply to the period provided for in paragraph 3 of this Article.

Footnote. Chapter 8 is supplemented by Article 30-2 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 31. Decisions based on the results of the examination

1. Based on the results of the examination, a decision shall be made:

1) on registration of a geographical indication and (or) granting the right to use a geographical indication;

2) on refusal to register a geographical indication and (or) granting the right to use a geographical indication;

3) on registration of the appellation of origin and (or) granting the right to use the appellation of origin;

4) on refusal to register the appellation of origin and (or) granting the right to use the appellation of origin.

2. A notification of the decision provided for by paragraph 1 of this Article shall be sent to the applicant.

In the cases specified in subparagraphs 2) and 4) of paragraph 1 of this Article, the relevant expert opinions shall also be sent to the applicant.

3. The applicant shall have the right to submit a reasoned objection within three months from the date of sending him/her an expert opinion on the refusal to register, based on the results of consideration of which the expert organization shall issue a final opinion within three months from the date of receipt of the objection.

On the basis of the final conclusion, the expert organization shall make the decision provided for in paragraph 1 of this Article.

4. The applicant shall pay for the services of an expert organization for the registration of a geographical indication and (or) the right to use a geographical indication, the registration of an appellation of origin and (or) the right to use an appellation of origin within three months from the date of sending him/her a notification of the decision to register. If a document confirming payment for the specified service is not submitted, the application for a geographical indication, an application for an appellation of origin shall be recognized as withdrawn and the office work on them shall be terminated.

5. In case of disagreement with the final conclusion, the applicant may file an objection in the manner provided for by paragraph 5 of Article 12 of this Law.

Footnote. Article 31 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 32. Rights of the applicant

1. When conducting an examination of an application for a geographical indication, an application for an appellation of origin, the applicant shall be granted the rights specified in subparagraphs 1), 2), 3), 4), 5) and 7) of Article 13 of this Law.

2. The applicant shall have the right, before a decision on the application is made, to convert an application for a geographical indication into an application for an appellation of origin and vice versa, subject to compliance with the requirements of this Law.

Footnote. Article 32 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 9. Registration and granting the right to use a geographical indication and appellation of origin

Footnote. The heading of Chapter 9 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 33 The procedure for maintaining the State register of geographical indications and the State register of appellations of origin

1. An expert organization shall enter into the State register of geographical indications and the State register of appellations of origin:

geographical indication or appellations of origin;

number and date of their registration;

description of the special properties, quality, reputation and other characteristics of the goods;

information about all owners of the right to use a geographical indication and an appellation of origin, indicating their place of residence (location);

numbers and dates of submission of applications;

all subsequent changes to the specified information, as well as other information related to registration.

2. The owner of the right to use a geographical indication and an appellation of origin of goods shall be obliged to notify the expert organization about changes regarding registration information. An entry about changes shall be made by an expert organization in the State register of geographical indications and the State register of appellations of origin, respectively.

3. The State register of geographical indications and the State register of appellations of origin are publicly available. At the request of interested parties, the expert organization provides an extract from the State register of geographical indications and the State register of appellations of origin.

Footnote. Article 33 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 34 Terms of validity of registration of a geographical indication and an appellation of origin, the right to use a geographical indication and an appellation of origin

1. Registration:

of a geographical indication shall be valid indefinitely, subject to the preservation of a certain quality, reputation or other characteristics of the goods, which are largely related to its geographical origin;

the appellation of origin shall be valid indefinitely, provided that the special properties of the goods produced in the territory of the specified geographical object are preserved.

2. The right to use a geographical indication and an appellation of origin shall be valid for ten years from the date of filing an application with an expert organization.

3. The period of validity of the right to use a geographical indication and an appellation of origin shall be extended every ten years at the request of the owner, filed during the last year of its validity, subject to preservation:

of a certain quality, reputation or other characteristics of the goods, which are largely related to its geographical origin;

of special properties of the goods in respect of which the appellation of origin is registered

4. An application for the extension of the term of validity of the right to use a geographical indication or an appellation of origin shall be submitted simultaneously with the documents provided for in paragraph 6 of Article 29 of this Law. Information on the renewal of the registration shall be entered in the State register of geographical indications, the State register of appellations of origin.

5. The deadline for filing an application, established by paragraph 3 of this Article, shall be restored at the request of the owner, filed within six months after the expiration of the registration.

Footnote. Article 34 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 35. Publication of registration information

Information related to the registration of geographical indications and appellations of origin entered into the State register of geographical indications and the State register of appellations of origin shall be posted weekly by the expert organization on its Internet resource.

Footnote. Article 35 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 36. Right to use a geographical indication and an appellation of origin

1. The right to use a geographical indication and an appellation of origin shall be certified by a certificate and confirmed by an extract from the State register of geographical indications and the State register of appellations of origin.

The form of the certificate shall be established by the authorized body.

2. An extract from the State register of geographical indications and the State register of appellations of origin confirms the fact of registration of a geographical indication and an appellation of origin of goods and the exclusive right to use them in relation to the goods specified in the State register of geographical indications and the State register of appellations of origin. The form of the extract shall be established by the authorized body.

Footnote. Article 36 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 10 Use of geographical indication and appellation of origin

Footnote. The heading of Chapter 10 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 37. Conditions for the use of a geographical indication and an appellation of origin

Footnote. The heading of Article 37 is in the wording of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. The owner of the right to use a geographical indication and an appellation of origin shall have the right to use them. The right to use a geographical indication and an appellation of origin shall arise for their owner from the date of registration of the right to use them in the State register of geographical indications and the State register of appellations of origin.

2. It is not allowed to use without registration the name of a geographical object that is identical or confusingly similar to the registered geographical indication and the appellation of origin in relation to homogeneous goods.

3. It is not allowed to use geographical indications and appellations of origin representing or containing the names of geographical objects identifying mineral waters, wines or spirits to designate such goods that do not originate from this place, even if the true place of origin is indicated or a translation is used or the designation is accompanied by expressions of the "kind", "type", "in style" or other similar expressions.

4. Alienation, other transactions on the assignment of the right to use a geographical indication and an appellation of origin and granting of the right to use a geographical indication and an appellation of origin on the basis of a license agreement shall not be allowed.

Footnote. Article 37 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 38. Warning marking

The owner of the right to use a geographical indication and an appellation of origin may place a warning marking next to the geographical indication and the appellation of origin of goods in the form of the Latin letter R, verbal designations “tirkelgen geographyalyk nuskama”, “tirkelgen tauar shygarylgan zherdin atauy”, “registered geographical indication”, “registered appellation of origin” or “tirk. GN”, “tirk. TShZHA”, “reg. GI”, “reg. AOG”

Footnote. Article 38 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 11. Termination of legal protection of geographical indication and appellation of origin

Footnote. The heading of Chapter 11 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 39. Contestation of registration of a geographical indication and an appellation of origin and (or) granting the right to use them

Footnote. The heading of Article 39 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128 -VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. Registration of a geographical indication and appellation of origin and (or) the right to use them may be contested and invalidated if it was carried out in violation of the requirements established by Articles 26, 27 and 29 of this Law.

2. Registration of geographical indication and appellation of origin of goods and (or) granting the right to use them may be contested and invalidated within five years from the date of publication of information on the state registration of geographical indication and appellation of origin in the official bulletin, if the use of geographical indication and appellation of origin is able to mislead the consumer regarding the goods or its manufacturer in connection with the presence of a trademark having an earlier priority, as well as wide popularity in the Republic of Kazakhstan, acquired as a result of active use.

3. Any interested person may, on the grounds specified in paragraphs 1 and 2 of this Article, submit an objection to the authorized body against the registration of a geographical indication and an appellation of origin and (or) the granting of the right to use them. The person who has submitted the objection, as well as the owner of the right of use, shall have the right to participate in the consideration of the dispute.

The objection must be considered in accordance with the procedure and time limits established by paragraph 2 of Article 23 of this Law.

Footnote. Article 39 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 40. Termination of the legal protection of a geographical indication and an appellation of origin and their recognition as invalid

1. The legal protection of a geographical indication and an appellation of origin of the goods in the Republic of Kazakhstan shall be terminated in cases of:

1) disappearance of conditions characteristic for a given geographical object and the inability to produce goods having the characteristics specified in the State register of geographical indications and the State register of appellations of origin in relation to this geographical indication and appellation of origin;

2) termination of legal protection of geographical indication and appellation of origin in the country of origin of the goods.

2. The effect of the right to use a geographical indication and an appellation of origin shall be terminated in the following cases:

1) expiration of the term established by Article 34 of this Law;

2) the loss of the goods special properties, quality, reputation and other characteristics specified in relation to it in the State register of geographical indications and the State register of appellations of the origin;

3) submission to the expert organization of the relevant application of the owner of the right to use the geographical indication and the appellation of origin of the goods;

4) liquidation of a legal entity or termination of entrepreneurial activity of an individual – the owner of the right to use a geographical indication and the appellation of origin of the goods;

5) loss by the owner of the right of the right to carry out activities for the production of goods having special properties, quality, reputation and other characteristics specified in relation to it in the State register of geographical indications and the State register of appellations of origin;

6) termination of the legal protection of the geographical indication and the appellation of origin on the grounds specified in paragraph 1 of this Article;

7) loss by a foreign legal entity, a foreigner or a stateless person of the right to this geographical indication and the appellation of origin in the country of origin of the goods.

3. Registration of a geographical indication and an appellation of origin and (or) granting of the right to use them shall be recognized as invalid by the decision of the Appeal council or court on the grounds specified in Articles 26, 27 and 29 of this Law.

4. An expert organization shall make an entry in the State register of geographical indications and the State register of appellations of origin on the termination of the registration of geographical indications and appellations of origin of goods and (or) granting the right to use them and post information about it on its Internet resource.

Footnote. Article 40 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128 -VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 12. Protection of the rights of owners of trademarks and the rights to use geographical indications and the appellations of origin

Footnote. The heading of Chapter 12 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 41. Appeal board

1. The Appeal board shall be a collegial body under the authorized body for pre-trial consideration of the applicants' objections.

2. The following may be objected to the Appeal board:

1) decisions of an expert organization on the refusal of registration of a trademark, including the refusal to grant legal protection to a trademark declared in accordance with paragraphs 1 and 2 of Article 5 of the protocol to the Madrid Agreement;

2) to the decisions of the expert organization on refusal of registration and (or) granting the right to use the geographical indication and the appellation of origin;

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

4) against registration and (or) granting the right to use the geographical indication and the appellation of origin.

Pre-trial consideration of these objections shall be mandatory.

3. The composition of the Appeal council should include an odd number (at least five) members, including representatives of authorized bodies for entrepreneurship and in the field of protection of trademarks, geographical indications and appellations of origin, as well as public councils from these authorized bodies.

4. The composition of the Appeal board may not include:

- 1) patent attorneys;
- 2) spouses, close relatives or relatives by marriage;
- 3) employees of an expert organization.

5. Replacement of any member of the Appeal board shall be possible in case of:

- 1) recusal or challenge, declared by the participants in the meeting of the Appeal board, on the basis of paragraph 4 of this article;
- 2) absence due to temporary disability, being on vacation or on a business trip.

6. Each meeting of the Appeal board shall be held using video recording in the manner determined by the authorized body.

Footnote. Article 41 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 41-1. Grounds for refusal to consider an objection in the Appeal Board

The objection shall be refused to be considered if:

- 1) the objection is not subject to consideration in the Appeal Board;
- 2) the objection is not signed or is signed by the person who is not authorized to sign it;
- 3) the objection is filed out of the set time limit and the possibility to extend or restore the time limit is lost;
- 4) the deficiencies related to the requirements for form, content or procedure of filing an objection are not eliminated by the applicant within the established period of time.

Under the above-listed circumstances the notification shall be sent to the individual who filed an objection that the received objection cannot be admitted for examination and shall be considered as unfiled.

The person who filed an objection or his representative may revoke the filed objection before announcement of the decision of the Appeal Board.

Footnote. The Law was completed with article 41-1 in accordance with the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication).

Article 41-2. Consideration of objection

1. Consideration of an objection shall be carried out by the Appeal board in the manner determined by the authorized body and within the time periods provided for by this Law.

2. If the deadline for filing an objection is missed, the Appeal board may take it into consideration if the reasons for missing the deadline are recognized as valid on the basis of the submitted documents.

3. The term for consideration of the objection may be extended to three months, including at the written request of an applicant.

4. The appeal council shall have the right to postpone the date of the meeting in cases of:

1) non-appearance of the parties, including the applicant of the objection, with the exception of the case of submitting a petition for consideration of objection without his/her participation;

2) petitions of the applicant about the need for time to present additional evidence;

3) the need for an additional study of arguments of the parties and (or) circumstances related to the objection.

5. The Appeal board shall make one of the following decisions:

1) on satisfaction of an objection;

2) on partial satisfaction of an objection;

3) on refusal to consider an objection;

4) on refusal to satisfy an objection.

The Appeal board shall not be entitled on its own initiative to change the subject or basis of the objection.

6. All members of the Appeal board, when considering an objection, shall enjoy equal rights. The decision of the Appeal board shall be adopted by a majority of votes of the total number of its members.

7. The decision made shall be sent to the applicant of the objection within ten working days from the date of its adoption.

8. The Appeal board may leave the objection without consideration at the request of the applicant of the objection. The decision to leave the objection without consideration shall be made out by the minutes of the meeting of the Appeal board.

9. The decision may be appealed in court.

Footnote. The Act was completed with article 41-2 according to the Law of the RK of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication).;as amended by the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 41-3. Correction of clerical error and obvious technical errors in decision of Appeal board

1. After the announcement of the decision on the objection, the Appeal board that made the decision shall not be entitled to cancel or change it.

2. The Appeal board may, on its own initiative or at the request of the persons participating in consideration of the objection, correct the clerical errors or obvious technical errors made in the decision.

The issue on making corrections shall be resolved at a meeting of the Appeal board. Persons participating in the consideration of an objection shall be notified of the time and place of the meeting of the Appeal board, but their failure to appear shall not be an obstacle to considering the issue on making corrections.

3. Corrections to the decision of the Appeal board shall be made out by an additional decision of the Appeal board.

Footnote. The Law shall be supplemented by Article 41-3 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 41-4. Leaving an objection without consideration

1. The Appeal board shall leave an objection without consideration if:

1) the person who filed the objection, duly notified of the time and place of the meeting of the Appeal board, who did not declare the consideration of the objection in his absence, did not appear at the meeting of the Appeal board for the secondary call;

2) there is a petition of the person who filed the objection to withdraw his objection.

2. The decision to leave the objection without consideration shall be recorded in the minutes of the meeting of the Appeal board.

Footnote. The law shall be supplemented by Article 41-4 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 42. Consideration of disputes

1. The following disputes shall be considered in court:

1) on the legality of issuing a certificate for a trademark or geographical indication and the appellation of origin of the goods;

2) against the validity of the registration of a trademark in connection with its non-use;

3) on violation of the exclusive right of the owner (copyright holder) of the trademark or the right to use the geographical indication and the appellation of origin of the goods;

4) on the conclusion and execution of license agreements for the use of a trademark;

5) on the legality of recognition of a trademark as well-known;

6) on termination of the registration of a trademark that is identical or confusingly similar to a trademark recognized as well-known in the Republic of Kazakhstan, if its use is able to mislead the consumer regarding the product or its manufacturer;

7) other disputes related to the protection of rights arising from the certificate.

These disputes, except for those specified in subparagraphs 1), 4), 5) and 6) of part one of this paragraph, may be considered by agreement of the parties in arbitration or mediation, if

this is not prohibited by the laws of the Republic of Kazakhstan "On arbitration" and "On mediation".

The statements of claim against the decisions of the expert organization referred to in paragraph 2 of Article 41 of this Law shall be submitted to the court after consideration of the relevant objections in the Appeal board.

2. An expert organization, on the basis of a court decision that has entered into legal force, shall make appropriate changes to the State register of trademarks, the State register of geographical indications and the State register of appellations of Origin, including the termination of registration of a trademark, a well-known trademark or an appellation of origin of goods, cancellation of registration of granting the right to use a trademark or change the owner (the copyright holder) of the trademark, publish information about changes related to registration.

Footnote. Article 42 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 21.01.2019 No. 217-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 43. Responsibility for violation of the legislation of the Republic of Kazakhstan on trademarks, service marks, geographical indications and appellations of origin

Footnote. The heading of Article 43 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128 -VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. Introduction of a trademark without the consent of the owner (copyright holder) or without the consent of the owner of the geographical indication and an appellation of origin or designations similar to it to the extent of confusion, into circulation with respect to homogeneous goods or services, and in the case of a well-known trademark - in relation to all goods and services shall be recognized as violation of the exclusive right to a trademark or the right to use the geographical indication and the appellation of origin.

The use of a trademark or geographical indication and the appellation of origin in the media shall also be recognized as violation of the exclusive right of the owner (copyright holder) of the trademark or the owner of the right to use the geographical indication and the appellation of origin.

2. For violations of the exclusive right to a trademark or the right to use the geographical indication and the appellation of origin of the goods, including for their placement or placement of the designation similar to them to the extent of confusion, on the product or its packaging, the perpetrators shall be liable in accordance with laws of the Republic of Kazakhstan.

Footnote. Article 43 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication). dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 43-1. Exhaustion of the exclusive right to a trademark

The use of the trademark in relation to products that have been lawfully put into circulation in the territory of any of the member states of the Eurasian Economic Union directly by the owner (copyright holder) of the trademark or by other persons with his consent shall not be a violation of the exclusive right to a trademark.

Footnote. The Law shall be supplemented by Article 43-1 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 44. Methods of protecting the right of the owner (copyright holder) of the trademark or the owner of the right to use the geographical indication and the appellation of origin

Footnote. The heading of Article 44 as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

1. A person who has violated the right of the owner (copyright holder) of the trademark or the owner of the right to use the geographical indication and the appellation of origin shall be obliged to immediately terminate the violation and compensate the incurred losses to the owner (copyright holder) of the trademark or the owner of the right to use the geographical indication and the appellation of origin.

2. Disputes related to the determination of the legitimacy of the use of a trademark, geographical indication and appellation of origin of the goods or designation, similar to them to the extent of confusion, or a well-known trademark, shall be considered by the court in the manner established by the civil procedural legislation of the Republic of Kazakhstan.

3. The goods and their packaging, on which a trademark, geographical indication and the appellation of origin or designations similar to them to the extent of confusion are placed without the consent of the owner, shall be recognized as counterfeit. Counterfeit goods and their packaging, as well as tools, equipment or other means and materials used for their manufacture, shall be subject to withdrawal from circulation and destruction at the expense of the violator on the basis of a court decision that has entered into legal force, except in cases when the introduction of such goods into circulation is necessary in the public interests and does not violate the requirements of the legislation of the Republic Kazakhstan on the protection of consumer rights.

4. The owner shall have the right to demand the removal from counterfeit goods and their packages of an illegally placed trademark or geographical indication and the appellation of

origin, a designation similar to them to the extent of confusion, in the cases specified in paragraph 3 of this Article.

5. A person who violated the right of the owner (copyright holder) of the trademark or the owner of the right to use the geographical indication and the appellation of origin of the goods in the performance of works or provision of services, shall be obliged to remove the trademark or geographical indication and the appellation of origin of the goods, or designation similar to them to the extent of confusion, from the materials that accompany the performance of works or provision of services, including documentation, advertising, signs.

6. The owner, upon proving the fact of an offense, shall have the right, instead of compensation for damages, to demand compensation from the violator in the amount determined by the court, based on the nature of the violation, the market value of homogeneous (original) goods on which the trademark, geographical indication and the appellation of origin of the goods or a designation similar to them to the extent of confusion, are placed with the consent of the owner.

Footnote. Article 44 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Chapter 13. Concluding provisions

Article 45. Payment for the services of an expert organization

Payment shall be charged in accordance with Article 3-1 of this Law by an expert organization for the provision of services in the field of protection of trademarks, geographical indications and the appellation of origin of the goods.

Footnote. Article 45 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 46. Patent attorneys

1. A capable citizen of the Republic of Kazakhstan who permanently residing on its territory, having a higher education, having passed attestation and registered in the register of patent attorneys shall have the right to be a patent attorney.

The attestation of persons applying for employment as a patent attorney shall be carried out in the form of testing for knowledge of the legislation of the Republic of Kazakhstan and international treaties ratified by the Republic of Kazakhstan in the field of intellectual property.

The attestation commission created under the authorized body consists of an odd number of employees of the authorized body.

The procedure for conducting the attestation of persons applying for employment as a patent attorney, registration in the register of patent attorneys and making changes to it shall be determined by the authorized body.

The register of patent attorneys shall be placed on the Internet resource of the authorized body.

2. The following persons shall not be allowed to the attestation:

1) who, in accordance with the laws of the Republic of Kazakhstan, are prohibited from engaging in entrepreneurial activity;

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

3) having an outstanding or not removed criminal record for committing a crime in accordance with the procedure established by law;

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

3. Persons with experience in the field of protection and protection of intellectual property rights for at least four years or who have completed an internship at the chamber of patent attorneys for at least one year shall be allowed for attestation.

4. The activities of the patent attorney shall be suspended by the protocol decision of the attestation commission:

1) on the basis of a patent attorney's application submitted to the attestation commission;

2) for the period of assignment to persons who, in accordance with the laws of the Republic of Kazakhstan, are prohibited from engaging in entrepreneurial activity, to employees of the authorized body and its subordinate organizations;

3) in order to clarify the circumstances provided for in paragraph 1 of Article 46-2 of this Law.

In the case specified in subparagraph 3) of part one of this paragraph, the activities of the patent attorney shall be suspended until the appropriate decision is made by the attestation commission within three months.

The activity of a patent attorney shall be resumed by a protocol decision of the attestation commission in case of elimination of the grounds that served to suspend his/her activities.

5. The patent attorney, as a representative of the applicant, copyright holder shall carry out activities related to conducting cases with the authorized body and expert organization on the issues of legal protection of intellectual property objects. The conduct of cases with the authorized body and expert organization may also be carried out by the applicant and (or) the copyright holder independently.

Individuals living outside the Republic of Kazakhstan, or foreign legal entities shall carry out their rights of the applicant, the owner of the trademark, the service mark and the right to

use the geographical indication and the appellation of origin, as well as the rights of the interested person in the authorized body and its organizations through patent attorneys.

Individuals permanently residing in the Republic of Kazakhstan, but temporarily located outside of it, may exercise their rights of the applicant, the owner of the trademark, service mark and the right to use the geographical indication and the appellation of origin, as well as the rights of an interested person without a patent attorney when specifying the address for correspondence within the Republic of Kazakhstan.

The information that the patent attorney receives from the principal in connection with the execution of his/her order shall be recognized as confidential subject to compliance with the requirements imposed by the laws of the Republic of Kazakhstan to confidential information or other legally protected secret.

Footnote. Article 46 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128 -VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 46-1. Rights and responsibilities of a patent attorney

1. Patent attorney shall have the right to:

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

2) carry out works on the registration and compilation of applications for registration of trademarks, service marks, geographical indications and appellations of origin on behalf of and by the order of the customer, principal, employer;

3) interact with the authorized body and (or) expert organization on the issues of protection of rights to trademarks, service marks, geographical indications and appellations of origin, including correspondence, prepare and send objections to the decisions of the examination;

4) promote in the preparation, consideration of licensing (sublicense) agreements and (or) assignment agreements, as well as in the subsequent registration of transfer and granting the rights in an expert organization;

5) be a member of the chamber of patent attorneys;

6) carry out other types of activity related to the issues of protection and protection of intellectual property, not prohibited by the laws of the Republic of Kazakhstan.

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

When conducting cases related to filing an objection to the appeal council, the patent attorney shall be obliged to submit the original power of attorney to the authorized body.

3. If the power of attorney is compiled in a foreign language, then a notarized translation of the power of attorney into Kazakh or Russian, depending on the language in which the objection has been filed, must be submitted.

4. The patent attorney shall be obliged not to accept the instruction if he/she earlier represented or advised on this case the persons whose interests contradict the interests of the

person who asked for the conduct of the case, or participated in another way in its consideration, as well as if an official who is a close relative of the patent attorney, a husband (or a wife), participates in the consideration of the case.

Footnote. The Act was completed with article 46-1 according to the Law of the RK of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 46-2. Exclusion from the register of patent attorneys, invalidation of the certificate of a patent attorney and cancellation of information in the register of patent attorneys

1. A patent attorney shall be excluded from the register of patent attorneys by the decision of the attestation commission:

1) on the basis of a personal application of a patent attorney submitted to the attestation commission;

2) upon termination of citizenship of the Republic of Kazakhstan or when leaving for a permanent place of residence outside the Republic of Kazakhstan;

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

4) upon the entry into force of the guilty verdict of the court by which the patent attorney was convicted of committing a crime;

5) in the event of the death of a patent attorney or recognition of him as missing or declared deceased;

6) in case of recognition of a patent attorney incompetent or limitedly capable;

7) based on the results of consideration of complaints of individuals and (or) legal entities, as well as representation of the chamber of patent attorneys.

2. On the basis of a decision of the attestation commission or a court decision or conviction that has entered into force, the certificate of a patent attorney shall be declared invalid and the relevant information shall be entered into the register of patent attorneys.

3. A patent attorney excluded from the register of patent attorneys loses the right to carry out the activities of a patent attorney from the date of entering information about it, and the certificate of his/her registration as a patent attorney shall be cancelled.

4. In case of receipt of a complaint of an individual and (or) a legal entity or representation of the chamber of patent attorneys against the actions of a patent attorney, the authorized body shall form an appeal commission from an odd number of employees of the authorized body. For the period of consideration of the complaint of an individual and (or) a legal entity or the representation of the chamber of patent attorneys, the validity of the patent attorney's certificate shall be suspended, which is noted in the register of patent attorneys.

Based on the results of consideration of a complaint of an individual and (or) legal entity or representation of the chamber of patent attorneys, one of the following decisions shall be made:

1) to withdraw the certificate of a patent attorney and make the corresponding entry to the register of patent attorneys;

2) to refuse to satisfy the complaint of an individual and (or) legal entity or represent the chamber of patent attorneys.

The decision of an appeal commission shall be made by a simple majority of votes, drawn up by the protocol and may be appealed to the court.

Footnote. The Act was completed with article 46-2 according to the Law of the RK of 12.01.2012 No. 537-IV (enters into force in ten calendar days after its first official publication); is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall be enforced upon expiry of sixty calendar days after the day of its first official publication).

Article 47. International registration

Individuals and legal entities shall be entitled to submit, through an expert organization, the applications for the international registration of trademarks and appellations of origin.

The procedure for consideration of applications for international registration shall be determined by the authorized body in accordance with international treaties ratified by the Republic of Kazakhstan.

Footnote. Article 47 shall be in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 48. Rights of foreign individuals, foreign legal entities and stateless individuals

Foreign individuals, foreign legal entities, stateless individuals have rights and responsibilities provided by this Law on the same footing as the legal entities and the individuals of the Republic of Kazakhstan unless otherwise provided for by the legislation of the Republic of Kazakhstan.

The President of the Republic of Kazakhstan