

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

Law of the Republic of Kazakhstan dated January 12, 2012 № 537-IV

"Kazakhstanskaya pravda" dated 20.01.2012 № 23-24 (26842-26843); "Egemen Kazakstan" dated 20.01.2012 № 23-25 (27,096)

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## PRESS RELEASE

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

1. The Criminal Code of the Republic of Kazakhstan of July 16, 1997 (Official Gazette of the Parliament of the Republic of Kazakhstan, 1997, № 15-16, Art. 211; 1998, № 16, art. 219; № 17-18, Art. 225; 1999 city, № 20, art. 721; № 21, Art. 774, 2000, № 6, Art. 141, 2001, № 8, Art. 53, 54, 2002, № 4, Art. 32, 33; № 10, art. 106; № 17, art. 155; № 23-24, Art. 192; 2003, № 15, art. 137; № 18, art. 142; 2004, № 5, Art. 22; № 17, art. 97; № 23, Art. 139, 2005, № 13, art. 53; № 14, art. 58; № 21-22, Art. 87; 2006, № 2, Art. 19; № 3, Art. 22; № 5-6, Art. 31; № 8, Art. 45; № 12, art. 72; № 15, art. 92; 2007, № 1, Art. 2; № 4, Art. 33; № 5-6, Art. 40; № 9, Art. 67; № 10, art. 69; № 17, art. 140; 2008, № 12, art. 48; № 13-14, Art. 58; № 17-18, Art. 72; № 23, Art. 114; № 24, art. 126; 2009, № 6-7, Art. 32; № 13-14, Art. 63; № 15-16, Art. 71, 73, 75; № 17, art. 82, 83; № 24, art. 121, 122, 125, 127, 128, 130, 2010; № 1-2, Art. 5; № 7, Art. 28, 32; № 11, art. 59; № 15, art. 71; № 20-21, Art. 119; № 22, art. 130; № 24, Art. 149, 2011, № 1, Art. 9; № 2, art. 19, 28; Law of the Republic of Kazakhstan dated November 9, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on improvement of law enforcement and further humanization of the criminal law", published in the newspapers "Egemen Kazakstan" dated November 16, 2011, and "Kazakhstanskaya Pravda" dated November 19, 2011; the Law of the Republic of Kazakhstan dated 29 November 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on combating organized crime, terrorist and extremist activity" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated December 3, 2011; the Law of the Republic of Kazakhstan dated December 3, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on environmental issues" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated December 8, 2011):

1) in contents of table heading of Article 184 shall be amended as follows:

"Article 184. Violation of copyright and (or) related rights";

2) Article 184 shall be amended as follows:

"Article 184. Violation of copyright and (or) related rights

1. Attribution of authorship or coercion to co-authorship, if such action caused substantial harm to the rights or legitimate interests of the author or other right holder, including caused considerable damage, -

Shall be punishable by a fine in the amount of from one hundred to five hundred monthly calculation indices, or community service from one hundred to one hundred and eighty hours, or imprisonment for up to two years.

2. Illegal use of copyright and (or) related rights, as well as acquisition, storage, transportation, or manufacture of infringing copies of copyright and (or) related rights objects with the purpose to market them, committed in considerable amount -

Shall be punishable by a fine in the amount of from five hundred to seven hundred monthly calculation indices, or community service from one hundred and eighty to two hundred forty hours, or imprisonment for up to one year.

3. Illegal use of copyright and (or) related rights, through the establishment, creation of Internet resources for further access with the purpose of exchange, storage, transfer of copyright

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

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

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

a) repeatedly;

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

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

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

2. The Civil Code of the Republic of Kazakhstan (General Part), adopted by the Supreme Council of the Republic of Kazakhstan on December 27, 1994 (Official Gazette of the Supreme Council of the Republic of Kazakhstan, 1994, № 23-24 (annex); 1995, № 15-16, Art. 109; № 20, art. 121; Bulletin of the Parliament of the Republic of Kazakhstan, 1996, № 2, Art. 187; № 14, art. 274; № 19, art. 370; 1997, № 1-2, Art. 8; № 5, Art. 55; № 12, art. 183, 184; № 13-14, Art. 195, 205; 1998, № 2-3, Art. 23; № 5-6, Art. 50; № 11-12, Art. 178; № 17-18, Art. 224, 225; № 23, Art. 429, 1999, № 20, art. 727, 731; № 23, Art. 916, 2000, № 18, Art. 336; № 22, art. 408; 2001, № 1, Art. 7; № 8, Art. 52; № 17-18, Art. 240; № 24, art. 338; 2002, № 2, art. 17; № 10, art. 102; 2003, № 1-2, art. 3; № 11, art. 56, 57, 66; № 15, art. 139; № 19 - 20, Art. 146; 2004, № 6, Art. 42; № 10, art. 56; № 16, art. 91; № 23, Art. 142, 2005, № 10, art. 31; № 14, Art. 58; № 23, Art. 104, 2006, № 1, Art. 4; № 3, Art. 22; № 4, Art. 24; № 8, Art. 45; № 10, art. 52; № 11, art. 55; № 13, art. 85; 2007, № 2, Art. 18; № 3, Art. 20, 21; № 4, Art. 28; № 16, art. 131; № 18, Art. 143; № 20, art. 153; 2008, № 12, art. 52; № 13-14, Art. 58; № 21, Art. 97; № 23, Art. 114, 115; 2009, № 2-3, Art. 7, 16, 18; № 8, Art. 44; № 17, art. 81; № 19, art. 88; № 24, art. 125, 134; 2010, № 1-2, art. 2; № 7, Art. 28; № 15, art. 71; № 17-18, Art. 112; 2011, № 2, Art. 21, 28; № 3, p. 32; № 4, Art. 37; № 5, Art. 43; № 6, art. 50; Law of the Republic of Kazakhstan dated July 22, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on housing relations" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated August 6, 2011):

the first part of paragraph 1 of Article 106 shall be added with the words ", unless otherwise provided by law."

3. The Civil Code of the Republic of Kazakhstan (Special Section) dated July 1, 1999 (Official Gazette of the Parliament of the Republic of Kazakhstan, 1999, № 16-17, Art. 642; № 23, Art. 929, 2000, № 3-4, Art. 66; № 10, art. 244; № 22, art. 408; 2001, № 23, Art. 309; № 24, art. 338; 2002, № 10, art. 102; 2003, № 1-2, Art. 7; № 4, Art. 25; № 11, art. 56; № 14, art. 103; № 15, art. 138, 139; 2004, № 3-4, Art. 16; № 5, Art. 25; № 6, art. 42; № 16, art. 91; № 23, Art. 142, 2005, № 21-22, Art. 87; № 23, Art. 104; 2006, № 4, Art. 24, 25; № 8, Art. 45; № 11, art. 55; № 13, art. 85; 2007, № 3, Art. 21; № 4, Art. 28; № 5-6, Art. 37; № 8, Art. 52; № 9, Art. 67; № 12, art. 88; 2009, № 2-3, Art. 16; № 9-10, Art. 48; № 17, art. 81; № 19, art. 88; № 24, art. 134; 2010, № 3-4, Art. 12; № 5, Art. 23; № 7, Art. 28; № 15, art. 71; № 17-18, Art. 112; 2011, № 3, Art. 32; № 5, Art. 43; № 6, art. 50, 53; Law of the Republic of Kazakhstan dated July 22, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on housing relations," published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated August 6, 2011):

1) subparagraph 4) of paragraph 1 of Article 977 shall be amended as follows:

"4) right of making available of the work to the general public (right of disclosure), with the exception to works created in the performance of official duties or of an assignment of the employer.";

2) subparagraph 2) of paragraph 2 of Article 978 shall be amended as follows:

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

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

4) in subparagraph 5) of paragraph 1 of Article 999 the word "ten" shall be replaced with the word "fifteen";

5) in article 1020:

paragraph 1 shall be amended as follows:

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

add paragraph 4 as follows:

"4. If existence of a trade name of one legal person which is identical or confusingly similar to a trademark (service mark) of another legal person or natural person engaged in the business activity is capable to mislead the consumers, priority shall be given to those means of individualization (trade name, trademark, service mark), the exclusive right to which has arisen earlier. The owner of such means of individualization in accordance with the order provided by the laws of the Republic of Kazakhstan has the right to request invalidation of the trademark (service mark) protection for similar goods or services or ban the use of trade name. ";

6) to add Paragraph 1 of Article 1024 with the third part as follows:

"If a trademark (service mark) of one legal person or natural person engaged in business activity is identical or confusingly similar to a trade name of another legal person and as a result of such identity or similarity can mislead the consumers, the provisions stipulated by paragraph 4 of Article 1020 of this Code shall be applied";

7) in the first part of Article 1028 the word "five" shall be replaced with the word "three."

4. The Code of the Republic of Kazakhstan on administrative offenses dated January 30, 2001 (Official Gazette of the Parliament of the Republic of Kazakhstan, 2001, № 5-6, Art. 24; № 17-18, Art. 241; № 21-22, Art. 281; 2002, № 4, Art. 33; № 17, art. 155; 2003, № 1-2, art. 3; № 4, Art. 25; № 5, Art. 30; № 11, art. 56, 64, 68; № 14, art. 109; № 15, art. 122, 139; № 18, art. 142; № 21-22, Art. 160; № 23, Art. 171, 2004, № 6, Art. 42; № 10, art. 55; № 15, art. 86; № 17, art. 97; № 23, Art. 139, 140; № 24, art. 153; 2005, № 5, Art. 5; № 7-8, Art. 19; № 9, Art. 26; № 13, art. 53; № 14, art. 58; № 17-18, Art. 72; № 21-22, Art. 86, 87; № 23, Art. 104, 2006, № 1, Art. 5; № 2, art. 19, 20; № 3, Art. 22; № 5-6, Art. 31; № 8, Art. 45; № 10, art. 52; № 11, art. 55; № 12, art. 72, 77; № 13, art. 85, 86; № 15, art. 92, 95; № 16, art. 98, 102; № 23, Art. 141, 2007, № 1, Art. 4; № 2, art. 16, 18; № 3 Art. 20, 23; № 4, Art. 28, 33; № 5 - 6, Art. 40; № 9, Art. 67; № 10, art. 69; № 12, art. 88; № 13, art. 99; № 15, art. 106; № 16, art. 131; № 17, Art. 136, 139, 140; № 18, art. 143, 144; № 19, art. 146, 147; № 20, art. 152; № 24, art. 180; 2008, № 6-7, Art. 27; № 12, art. 48, 51; № 13-14, Art. 54, 57, 58; № 15-16, Art. 62; № 20, art. 88; № 21, Art. 97; № 23, Art. 114; № 24, art. 126, 128, 129; 2009, № 2-3, Art. 7, 21; № 9-10, art. 47, 48; № 13-14, Art. 62, 63; № 15-16, Art. 70, 72, 73, 74, 75, 76; № 17, art. 79, 80, 82; № 18, art. 84, 86; № 19, art. 88; № 23, Art. 97, 115, 117; № 24, art. 121, 122, 125, 129, 130, 133, 134; 2010, № 1-2, art. 1, 4, 5; № 5, Art. 23; № 7, Art. 28, 32; № 8, Art. 41; № 9, Art. 44; № 11, art. 58; № 13, art. 67; № 15, art. 71; № 17 -18, Art. 112, 114; № 20-21, Art. 119; № 22, art. 128, 130; № 24, art. 146, 149; 2011, № 1, Art. 2, 3, 7, 9; № 2, art. 19, 25, 26, 28; № 3, Art. 32; № 6, art. 50; № 8, Art. 64; № 11, art. 102; № 12, art. 111; № 13, art. 115, 116; № 14, art. 117; Law of the Republic of Kazakhstan dated July 22, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of migration" published in the newspapers "Egemen Kazakhstan" and "Kazakhstanskaya Pravda" dated August 6, 2011, the Law of the Republic of Kazakhstan dated July 22, 2011 "On Amendments to some Legislative Acts of the Republic of Kazakhstan on housing relations," published in the newspapers "Egemen Kazakhstan" and "Kazakhstanskaya pravda" dated August, 6, 2011, the Law of the Republic of Kazakhstan dated

October 11, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of religious activity and religious associations" published in the newspapers "Egemen Kazakhstan" and "Kazakhstanskaya pravda" dated October 15, 2011; Law of the Republic of Kazakhstan dated November 9, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on improvement of law enforcement and further humanization of the criminal law" published in the newspapers "Egemen Kazakhstan" dated November 16, 2011 and «Kazakhstanskaya Pravda" dated November 19, 2011, the Law of the Republic of Kazakhstan dated December 3, 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on environmental issues" published in the newspapers "Egemen Kazakhstan" and "Kazakhstanskaya Pravda" dated December 8, 2011) :

1) in the contents of table heading of Article 129 shall be amended as follows:

"Article 129. Violation of copyright and (or) related rights ";

2) Article 129 shall be amended as follows:

"Article 129. Violation of copyright and (or) related rights

1. Illegal use of copyright and (or) related rights, as well as acquisition, storage, transportation, or manufacture of infringing copies of copyright and (or) related rights, except the use in the Internet, with the purpose of marketing, attribution of authorship or compulsion to co-authorship if these actions do not have signs of criminal offense, -

is subject to a fine for individuals in the amount of from ten to fifteen, for officials – in the amount of from twenty to thirty, for legal entities – in the amount of from one hundred to one hundred and fifty monthly calculation indices, with confiscation of copies of copyright and (or) related rights items, as well as items which were the instruments of the offense.

2. Actions stipulated by the first part of this Article repeated within one year after the imposition of administrative penalties -

are subject to a fine for individuals in the amount of from fifteen to twenty, for officials - in the amount of from thirty to fifty, for legal persons - in the amount of from one hundred and fifty to two hundred monthly calculation indices, with confiscation of copies of copyright and (or) related rights items, as well as items which were the instruments of the offense.

3. Illegal use of copyright and (or) related rights items by posting them on the Internet to provide access to the general public, if this action does not contain any signs of criminal offense, - is subject to notice of warning.

4. Illegal use of copyright and (or) related rights items through the establishment, creation of Internet resources for further access to the exchange, storage, movement of copies of works and (or) related rights items in electronic format, if this action does not contain any signs of a criminal offense, -

is subject to a fine for individuals in the amount of from ten to fifteen, for officials - in the amount of from twenty to thirty, for legal entities - in the amount of from one hundred to one hundred and fifty monthly calculation indices with the confiscation of copies of copyright and (or) related rights items, as well as items which were the instruments of the offense.

5. Actions stipulated by the third and fourth parts of this Article repeated within one year after the imposition of administrative penalties -

are subject to a fine for individuals in the amount of from fifteen to twenty, for officials - in the amount of from thirty to fifty, for legal entities - in the amount of from one hundred and fifty to two hundred monthly calculation indices, with confiscation of copies of copyright and (or) related rights items, as well as items which were the instruments of the offense. ";

3) in Article 344:

To add the second part of the first paragraph with the words "if these actions do not contain any signs of criminal offense";

To add the first paragraph of the fourth part with the words "if these actions do not contain any signs of criminal offense."

5. The Law of the Republic of Kazakhstan dated May 31, 1996 "On Public Associations" (Official Gazette of the Parliament of the Republic of Kazakhstan, 1996, № 8-9, Art. 234; 2000,

№ 3-4, Art. 63; 2001, № 24, Art. 338; 2005, № 5, Art. 5; № 13, art. 53; 2007, № 9, Art. 67, 2009, № 2-3, Art. 9; № 8, Art. 44; 2010, № 8, Art. 41):

1) Article 10 shall be amended as follows:

"Article 10. Establishment of public association

Public association is created by initiative of group of citizens of the Republic of Kazakhstan (not less than ten people).

The right of citizens to establish associations is realized either directly through union of the individuals or through the legal entities - public associations, except for political parties and labor unions.

The founders of the public association are individuals and (or) legal entities - public associations, except for political parties and labor unions, convening the meeting, at which the charter and governing bodies are formed. The founders of public associations - individuals and (or) legal entities - have equal rights and equal responsibilities.

The legal capacity of a public association as a legal person arises from the moment of its registration in accordance with the legislative acts of the Republic of Kazakhstan.";

2) To add the first part of Article 11 after the words "Republic of Kazakhstan" with the words "and (or) legal entities - public associations, except for political parties and labor unions."

6. The Law of the Republic of Kazakhstan dated June 10, 1996 "On Copyright and Related Rights" (Bulletin of the Parliament of the Republic of Kazakhstan, 1996, № 8-9, Art. 237; 2004, № 17, art. 100; 2005, № 21-22, Art. 87; 2007, № 20, art. 152; 2009, № 15-16, Art. 75):

1) in Article 2:

subparagraph 4) and 5) shall be amended as follows:

"4) pirated copy of copyright and (or) related rights object – shall mean a copy of work, recorded performance, phonogram, program of broadcasting and cable distribution, manufacturing, distribution or other use of which entails a violation of copyright and (or) related rights in the view of the provisions of this Law or the rules of international treaties ratified by the Republic of Kazakhstan. Copies of copyright and (or) related rights objects shall also be acknowledged as pirated if their information on management rights has been removed or changed without permission of the right holder or if they were produced with illegal use of devices that enable circumvention of technical protection of copyright and (or) related rights;

5) copyright contract - a contract which subject is the transfer of property rights to use one or more objects of copyright. The copyright contract is variation of license agreement";

add subparagraphs 8-1) and 14-1) as follows:

"8-1) information and communications network is a set of technical and hardware and software interoperability between information systems, or their components, as well as transmission of information resources;"

"14-1) internet recourse is an electronic information resource, technology of its operation and use in the open information and communication network, as well as organizational structure, providing information interaction;"

Subparagraph 19), 31) and 37) shall be amended as follows:

"19) reproduction - production of one or more permanent or temporary copies of copyright or related rights objects in any way or in any form, in whole or in part, directly or indirectly. Types of reproduction are manufacture of audio or video recording of one or more copies of the two-dimensional or three-dimensional work, as well as any permanent or temporary storage of copyright or related rights objects in any material form, including open information and communication network; "

"31) copy of copyright work - a copy of work made in any material form, including the one contained in a public information and communications network;"

"37) copy of a phonogram - a copy of the phonogram in any tangible medium, including the one contained in public information and communication network, produced directly or indirectly from a phonogram and incorporating all or part of the sounds of the sounds recorded thereon;"

2) In Article 9:

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

paragraph 1.1 shall be deleted;

3) to add Article 9.1 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. The following documents are presented in the registration of rights on photographic works and works obtained by processes similar to photography, as well as maps, plans, sketches, illustrations and three-dimensional works relative to geography, topography and other sciences:

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

9. The following documents are presented in the registration of rights on computer programs or databases:

- 1) application;
- 2) media (floppy disk or other electronic media) with the program and source code (incoming text) for computer or database;
- 3) abstract of a computer program or database, including the name of a computer program or database, name (surname, first name) of the applicant, date of creation, scope, purpose, functionality, basic specifications, programming language that implements the type of computer ;
- 4) copy of the document certifying the identity of the applicant;
- 5) original of the document confirming payment of fee for state registration.

Computer programs (software systems) which include several computer programs are subject to registration as a whole.

10. Works intended to distinguish the goods (services) of one natural or legal person from similar goods (services) of other natural or legal persons shall not be registered as copyrights.

11. For registration of rights on service works created in the performance of official duties or duty of the employer, in addition to the documents submitted for registration, it is necessary to submit a copy of the employment contract; in case of concluding an additional agreement between the author and the employer on the ownership of the property rights to use a service work - copy of such contract and copy of the certificate on state registration of legal person.

If the right holder of a work is a legal person, in addition to the documents submitted for registration it is necessary to submit a copy of the certificate on state registration of legal person.

12. A copy of the copyright contract concluded with the author (s) or right holder of the original work shall be submitted for the registration of rights on the compound or derivative works.

13. Materials submitted for registration shall be numbered, bound and initialed by the author (s) or right holder.

14. Examination of completeness of documents submitted and the accuracy of their processing is carried out within ten working days.

In the case if documents are found to be incomplete the authorized body, at the time specified, gives justified refusal in consideration and return documents that were provided.

After elimination of the authorized body's comments the author (authors) or right holder has the right to re-apply for registration.

15. Works submitted for state registration shall be examined to check whether they are properly fixed at the medium.

16. Proof of state registration of works protected by copyright shall be the issue of a certificate on state registration. Form of certificate of state registration of copyright shall be approved by the authorized body.

17. Upon application of the author (s) or right holder on loss or deterioration of a certificate of state registration the authorized body within ten working days issues its duplicate.

18. A fee shall be charged for state registration of works protected by copyright, as well as their re-registration, the issuance of a duplicate of the document certifying the registration of rights on works protected by copyright in accordance with the laws of the Republic of Kazakhstan. ";

4) subparagraph 4) of paragraph 1 of Article 15 shall be amended as follows:

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

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

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

6) Article 16.1 and 40-2 shall be amended as follows:

"Article 16-1. The minimum rates of remuneration

Government of the Republic of Kazakhstan sets minimum rates of remuneration in cases where the practical realization of the property (exclusive) rights on an individual basis cannot be done due to the nature of the work or the peculiarities of its use (public performance, including radio and television, reproduction of works by means of mechanical, magnetic or other recording, reproducing, reproduction of works for private purposes without the consent of the author and other cases). ";

"Article 40-2. The minimum rates of remuneration for performers and phonogram producers

Government of the Republic of Kazakhstan sets minimum rates of remuneration for performers and phonogram producers in cases where the practical realization of the property (exclusive) rights on an individual basis cannot be done due to the nature of performances or phonograms (public performance, including radio and television, reproduction of works by mechanical, magnetic or other recording, reproducing, reproduction for private purposes without the consent of the performer and the phonogram producer and in other cases). ";

7) add paragraph 3 of Article 43 with subparagraph 8) as follows:

"8) exercise of rights of broadcasting and cablecasting organizations to receive a remuneration for public performance, as well as broadcasting and cablecasting of their own programs published for commercial purposes.";

8) replace in subparagraph 3) of paragraph 1 of Article 46 the word "regular payment of remuneration" with the words "at least once per quarter pay the collected remuneration Kazakh owners of copyright and related rights, and at least once a year – foreign organizations administering similar rights ";

9) paragraph 7 of Article 46-2 shall be amended as follows:

"7. According to the results of meeting of Commission on Accreditation authority within not later than five working days after the meeting shall make a decision on the accreditation and issue a certificate of accreditation for five years to the applicant.

Accreditation commission in order to make a decision shall take into account the following:

- 1) operating in this area not less than one year from the date of registration as a legal person;
- 2) experience in distribution and payment of fees collected for at least three times;
- 3) positive feedback about the activities of the organization from authors and users;
- 4) existing agreements on mutual representation of interests with similar organizations for collective management of economic rights of right holders of other states.

The authorized body makes a decision to refuse in accreditation in case of:

- 1) failure to provide the documents stated by the legislation of the Republic of Kazakhstan;
- 2) incompleteness of the information contained in the documents. ";

10) in Article 47:

in paragraph 1:

after the word "authors" add with the words ", performers, phonogram producers and other holders of copyright and (or) related rights";

the words "exercising control over its activities" shall be deleted;

paragraph 2 shall be amended as follows:

"2. Authority has a right to require from the organizations for collective management of economic rights, the additional information necessary to verify compliance of the organization activity with this Law and the legislation of the Republic of Kazakhstan on the non-profit organizations or other legislation, as well as the Charter of this organization. ";



- 11) add Article 47-1 with subparagraph 4) 5) 6) 7) as follows:
- "4) commercial activities;
  - 5) breach of duty under Article 46 of this Act;
  - 6) late payment of remuneration;
  - 7) inactivity in search for authors, performers and producers of phonograms for the transfer of the collected remuneration. ";
- 12) Paragraph 1 of Article 48 shall be amended as follows:
- "1. For infringement of protected under this Law copyright and (or) related rights there shall be a responsibility in accordance with the laws of the Republic of Kazakhstan. ";
- 13) in paragraph 1 of Article 49:
- subparagraph 5) of the first part shall be amended as follows:
- "5) recovery of income derived by the infringer due to infringement of copyright and (or) related rights;"
- the second part shall be amended as follows:
- "Measures referred to in subparagraphs 4), 5) and 6) of this paragraph shall be applied at the choice of right holder."
7. The Law of the Republic of Kazakhstan dated July 13, 1999 "On Protection of Plant Varieties" (Bulletin of the Parliament of the Republic of Kazakhstan, 1999, № 19, art. 655; 2004, № 17, art. 100; 2005, № 21 - 22, Art. 87, 2007, № 5-6, Art. 37; 2009, № 24, art. 129; 2011, № 1, Art. 7; № 11, art. 102):
- 1) add paragraph 2 of Article 3-1 with subparagraphs 2-1) and 2-2) as follows:
- "2-1) approval of the application form for registration of a patent assignment agreement or the right to obtain a patent for a selection achievement;
- 2-2) approval of the application form for registration of a license agreement or sub-license agreement to use the selection achievement; "
- 2) add paragraph 2 of Article 3-2 with subparagraph 2-1) as follows:
- «2-1) the examination of patent assignment contracts or rights to receive a patent for selective achievement, as well as licensing and sublicensing agreements;"
- 3) add paragraph 1 of Article 5 with the second part as follows:
- "An application may be filed in the form of an electronic document, certified by digital signature.";
- 4) add the second part of paragraph 1 of Article 6 with the words "within two months from the date of receipt of application materials from the expert organization";
- 5) add paragraph 2 of Article 10 with the second part as follows:
- "The State Commission shall notify the expert organization on the specific terms of the test performance for patentability, within one month from the date of the application materials by expert organization.";
- 6) Article 18 shall be amended as follows:
- "Article 18. License agreement
1. Any person not the patent owner has the right to use the selection invention only with the permission of the patent under a license agreement.
2. A license agreement may provide for the granting to the licensee:
- 1) The right to use the selection invention while the licensor keeps opportunity to use it and the right to grant licenses to other persons (simple, non-exclusive license);
  - 2) The right to use the selection invention while the licensor keeps opportunity to use it, but without the right to grant licenses to other persons (exclusive license);
  - 3) The right to use the selection invention while the licensor doesn't keep opportunity to use it and without the right to grant licenses to other persons (full license).
- If the license agreement does not specify type of license, she is simple, non-exclusive.
3. Contract for the provision by the licensee to another person (sublicensee) a non-exclusive license to use the selection invention (sub-license agreement) may be made only in cases stipulated by the license agreement.

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

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

Registration of license agreements is based on examination of the materials made by expert organization.

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

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

The application shall be accompanied by:

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

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

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

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

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

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

The application must relate to one license agreement.

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

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

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

Substantive examination is held according the accepted materials of license agreement within twenty days, which study the materials of license agreement in accordance with the legislation of the Republic of Kazakhstan.

6. Reasons that prevent registration of a license agreement that can be eliminated:

1) Payment is not made for the maintenance of a patent;

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

7. In case of violation of the requirements for registration of documents or the presence of the grounds specified in paragraph 6 of this article prevent registration of the contract, but that can

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

8. Expert organization makes a determination to refuse to register a license contract under the following grounds:

- 1) termination of the patent for selection invention, for which the contract is concluded;
- 2) failure to provide timely respond to the request of the expert organization within three months;
- 3) the lack of all necessary information and documents in response to the request of the expert organization;
- 4) lack of licensee's powers of conclusion of the sublicense agreement in the license agreement the licensee and the lack of a license agreement, approved by an authorized body.

Within two working days after the conclusion the expert organization sends the conclusion to the authorized body stating the reasons for refusal.

9. In case of positive result of the examination the expert organization within five working days sends to the authorized body conclusion that there is no reason preventing the registration of a license agreement.

The decision on registration or refusal to register the license agreement is accepted by the authorized body within five working days from receipt of the expert organization opinion.

10. After the decision on registration of a license agreement authorized body:

- 1) draws an annex to the protection document for item of industrial property, for which the contract is concluded;
- 2) stamps on the front page of the contract on its registration with the date of registration and its registration number;
- 3) makes information about the contract in the register of registered contracts;
- 4) sends two copies of a registered contract and annex to the protection document to the address for correspondence specified in the statement;
- 5) sends the control copy of the contract with the conclusion to the expert organization to publish information on the registration of the contract.

The third and fourth copies of the contract are kept in the authorized body and expert organizations, respectively, and are control copies.

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

Statement on amendments to the recorded license agreement, sub-license agreement is submitted to the authorized body, and the provisions for registration of license agreements are applied.

Any person may obtain an extract from the register of registered license agreement, sub-license agreement relating to information on registered contracts that are open for publication.

Introduction of third parties with the text of the contract, and obtaining statements from it shall be allowed only with the written consent of the contracting parties.

In case if an authorized body made the decision to refuse registration of the license agreement on the basis of the conclusion of the expert organization documents of the considered contract with the decision to refuse to register are returned to the address specified in the application.

11. The license agreement and sub-license agreement shall take effect from the date of their registration by the authorized body.

12. In emergency situations in the country the Government of the Republic of Kazakhstan shall have the right to allow use of the selection invention without the consent of the patentee,

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

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

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

1. The assignment of the patent or the patent rights to receive a patent for selection invention is issued only by the contract of assignment.

The contract of assignment may be concluded at any time during the term of validity of the exclusive rights on selection invention, for which the contract is concluded.

The contract of assignment is concluded in writing and shall be registered by the authorized body.

Registration of the contract of assignment is based on the results of examination of its materials made by expert organization.

2. An application form is submitted to the expert organization to register a contract of assignment.

The application shall include:

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

Notarized copies of the contract, notarized statement from the contract, reflecting the transfer of rights may be submitted instead of original contract of assignment;

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

3) document confirming payment of state duty.

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

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

The application must relate to one contract of assignment.

3. The provisions stipulated by paragraphs 10.5 of Article 18 of this Act are applied in registration of a contract of assignment of the patent and the right to receive a patent for selection invention.

The assignment shall take effect from the date of its registration by the authorized body. ";

8) add the second part of paragraph 2 of Article 21 with the following sentence:

" The Regulations concerning the Appellate Council shall be approved by the authorized body.";

9) add Chapter 6-1 as follows:

"Chapter 6-1. Appellate Council and Patent Agents

Article 22-1. Appellate Council

1. The Appellate Council shall be a specialized structural subdivision of the authorized body for the pre-court consideration of disputes with respect to objections raised in accordance with paragraph 5 of Article 8, paragraph 5 of Article 10, paragraph 2 of Article 21 of this Act.

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

1) on the decision of the authorized body to refuse further consideration of the application for a patent for selective achievement;

2) against the issue of a patent for selection invention.

3) against the issue of a patent for selection invention.

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

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

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

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

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

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

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

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

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

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

Acceptance of objection to the consideration shall be refused if:

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

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

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

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

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

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

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

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

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

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

Upon consideration of objections the following decisions are made:

- 1) to satisfy the objections;
  - 2) partially to satisfy the objections;
  - 3) to postpone consideration of objections;
  - 4) to dismiss the objection.
5. Within ten working days from the date of the decision-making the Board of Appellate Council shall prepare and send to the parties the decision of the Appellate Council. The decision of the Appellate Council is set out in writing and shall consist of an introduction, descriptive, reasons and conclusion.

The decision of the Appellate Council shall be signed by all members of the Board of Appellate Council.";

#### Article 22-4. Patent agents

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

To certificate candidates as patent agent the authorized body forms Certification Commission from the staff of the authorized institution and expert organization. The minimum number of members of the certification committee shall be not less than five employees.

Certification of candidates as patent agent is conducted by the authorized body at least once a year upon receipt of applications from candidates to the patent agent.

As a result of certification, Certification Commission makes a decision to certificate or to refuse to certificate the candidate. The form of decision of Certification commission is approved by the authorized body.

The decision of Certification commission may be appealed in court within three months from the date of making such decision.

Successful candidates of qualification examination to patent agent receives a certificate of patent agent, its form is set by the authorized body.

For the certification of candidates to patent agents and issue the certificate state duty determined by the tax legislation of the Republic of Kazakhstan is collected.

2. Do not accepted for certification candidates to patent agents the following persons:

- 1) who in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities;
- 2) are employees of the authorized body and its subordinate organizations, as well as their close relatives, spouse (wife);
- 3) who has outstanding or unexpunged in the manner prescribed by law conviction for the offense;

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

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

- 1) based on the application of a patent agent, filed to the Certification commission;
- 2) for the period referring to persons who in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities, including the staff of the authorized body and its subordinate organizations;
- 3) in order to clarify the circumstances provided by subparagraphs 2) and 6) of paragraph 1 and paragraph 5 of Article 22-6 of this Law.

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

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

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

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

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

- 1) advise on the protection of intellectual property rights, acquisition or transfer of intellectual property rights;
- 2) carry out works on the design and preparation of applications for selection inventions on behalf of and in the name of the customer, principal, employer;
- 3) interaction with the authorized body and (or) expert organization for the protection of rights for selection inventions including letter exchange, preparation and sending of the objections for the decision of examination, participation in meetings of the advisory council of experts organization;
- 4) assist in the preparation, consideration and onward dispatch for examination of licensing (sublicensing) agreements and (or) contracts of assignment.

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

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

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

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

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

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

- 1) on the basis of personal application submitted to the Certification Commission;
- 2) termination of citizenship of the Republic of Kazakhstan or at the exit for permanent residence outside the Republic of Kazakhstan;
- 3) In the event of interrupt of professional patent agent activity for more than five years;

4) upon the entry into force of a judgment of conviction, by which the patent agent was convicted of committing a crime;

5) in the case of the death of a patent agent or a his recognition as missing or declared dead;

6) In the event that a patent attorney incompetent or incapable.

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

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

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

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

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

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

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

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

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

2) to dismiss the complaint.

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

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

10) add the first part of Article 25 after the word "inventions" with the words ", an examination of contracts of assignment of patents on selection invention or the right to receive them, as well as license agreements (sub-license agreements)."

8. To the Law of the Republic of Kazakhstan of 16<sup>th</sup> July 1999, "Patent Law of the Republic of Kazakhstan" (Bulletin of the Parliament of the Republic of Kazakhstan, 1999, № 20, art. 718; 2004, № 17, art. 100; 2005, № 21 - 22, art. 87; 2007, № 5-6, art. 37; 2009, № 15-16, art. 75; 2011, № 11, art. 102):

1) Add to paragraph 2 of Article 4.1 subparagraph 2-1) as follows:

«2-1) examination of concessions contracts of protection documents and assignment of rights to receive them, as well as licensing agreements (sublicensing agreements);"

2) In Article 5:

in paragraph 3:

in the fifth part the word "ten" shall be replaced with the word "fifteen";

add the sixth part as follows:



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

in paragraph 6 the words "regulated by law" shall be replaced with the words "determined by the Government of the Republic of Kazakhstan";

3) in Article 6:

in the fifth part of paragraph 1 the words "by other persons" shall be deleted;

subparagraph 8) of paragraph 3 shall be amended as follows:

"8) proposals that are contrary to the public interest, humanitarian principles and morality.";

4) in Article 8:

paragraph 1 shall be amended as follows:

"1. The artistic and design solution which determines the outward appearance of item shall be referred to industrial design. The industrial design shall be granted the legal protection provided it is new and original";

subparagraph 3) of paragraph 2 shall be deleted;

5) add Article 9, paragraph 5, as follows:

"5. The authors of the most important and widely used inventions can be presented for the nomination "Honored Inventor of the Republic of Kazakhstan." The rules of acknowledgement as "Honored Inventor of the Republic of Kazakhstan" shall be defined by the Government of the Republic of Kazakhstan. ";

6) Article 11 shall be amended as follows:

"Article 11. Exclusive rights and obligations of patentee

1. A patentee shall have the exclusive right to use at his own discretion the protected item of industrial property.

Exclusive right to use protected items of industrial property shall be exercised by the patent holder during the validity period of the protection document, beginning on the date of the publication of information concerning the issue of a given protection document in the official bulletin.

2. The following shall be recognized as the use of item of industrial property: manufacturing, application, import, offer to sell, sale, and any other introduction into civil turnover or storage for this purpose of the product containing the protected item of industrial property, as well as the application of the protected method.

The product shall be recognized as containing the protected invention or utility model, and the protected method shall be recognized as applicable when the product contains, and the method uses any feature of the invention, utility model given in an independent paragraph of the claim or a feature equivalent to it known in the prior art on the date of the beginning of application.

Introduction into civil turnover or storage for this purpose of the product manufactured directly by this method shall be recognized as the use of the protected method of manufacturing of the product.

The product shall be recognized as containing the protected industrial design when it contains all its essential features presented in the pictures of the item (model) and given in the list of essential features.

3. A patentee shall be obliged to use the item of industrial property.

Relations associated with the application of an item of industrial property the protection document on which belongs to several persons shall be defined by the agreement between them. In the absence of such agreement each of the patent holders may use the protected item at their own discretion, but they shall have no right to grant a license on it or assign the protection document to other person without the consent of other patentees.

A patentee may use warning marking indicating that the used item of industrial property is patented.

4. When the patentee does not use the industrial property item and refuses to conclude a licensing agreement on acceptable commercial terms any person shall have the right to apply to a

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

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

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

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

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

If the patent holder who cannot use the item of industrial property without infringing the rights of the holder of another patent proves that his industrial property item represents an important technical advance and has a considerable economic significance in relation to the item of industrial property of another patent, the court may decide to grant him a compulsory license.

When granting the indicated licence the court shall determine the limits of use of the item of industrial property the patent on which belongs to other person, deadlines, amount and procedure for payments. In this respect the amount of payments shall be established not lower than the market price of the licence as defined in accordance with the established practice.

The right to use the item of industrial property obtained on the basis of the present paragraph may be assigned only with the assignment of the protection document on this item of industrial property in connection therewith this right is granted.

In the case of granting in accordance with this paragraph of a compulsory license to the patent holder of protection document the right to use on which was granted on the basis of indicated license shall also have a right to receive a license to use the dependent invention in connection therewith compulsory license was granted.

6. The patentee may assign the protection document to any natural or legal person. The contract on assignment shall be subject to obligatory registration by the authorised body.

Registration of the contract on protection document assignment and the contract on assignment of the right to receive the protection document shall be carried out by the results of examination materials, conducted by expert organization.

Regulation on registration of the contract of assignment shall be applied to order of registration of the contract of assignment of rights to receive a protection document, unless otherwise provided by legislation of the Republic of Kazakhstan.

An application form is submitted to the expert organization to register a contract of assignment.

The application shall include:

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

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

- 2) Power of Attorney in the case of an application through the offices of patent agent or other representative;
- 3) a document confirming payment of state duty.

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

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

The application must relate to one contract of assignment.

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

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

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

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

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

- 1) no payment for the keeping in force of the protection document;
- 2) provisions in the contract of assignment which are contrary to the civil legislation of the Republic of Kazakhstan and international treaties ratified by the Republic of Kazakhstan.

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

10. Expert organization shall issue a decision to refuse to register the contract of assignment in the presence of the following grounds:

- 1) termination of the protection document validity in respect of which the contract is concluded;
- 2) failure to respond to the request of the expert organization timely within three months;
- 3) the lack of all the necessary information and documents.

Within two working days after the conclusion of the expert organization shall send the decision to the authorized body indicating the reasons for refusal.

11. In case of a positive result of the examination the expert organization within five working days shall send to the authorized body decision indicating that there is no reason preventing the registration of the contract of assignment.

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

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

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

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

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

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

Familiarization of third parties with the text of the contract and obtaining an extract from it shall be allowed only with the written consent of the contracting parties.

In case if an authorized body makes the decision to refuse a registration of the contract of assignment on the basis of the conclusion of the expert organization all the documents shall be returned to the address specified in the application.

13. The contract of assignment of protection document and the contract of assignment of the right to receive it shall take effect from the date of their registration in the authorized body.

14. Protection document for item of industrial property and (or) the right to receive it shall pass by inheritance or succession.

15. The patentee shall pay annually for keeping in force of protection document.";

7) Subparagraphs 4) and 6) of Article 12 shall be amended as follows:

"4) application of such means for personal, domestic or other non-business purposes, without receiving the profit;"

"6) importation into the territory of the Republic of Kazakhstan, use, offering for sale, sale, other introduction into civil turnover or storage for this purpose of the means containing the protected items of industrial property, if they were previously put into civil turnover in the territory of the Republic of Kazakhstan by patentee or any other person with the permission of the patentee.";

8) Article 14:

paragraph 4 shall be amended as follows:

"4. The licensing agreement and sublicensing agreement for the use of invention, utility model, industrial design shall be concluded in writing and be subject to the registration by the authorized body. The non-observance of written form or the requirement on registration shall entail the invalidity of the agreement.

Registration of licensing agreement is based on materials of examination held by expert organization.

The provisions on registration of licensing agreement are applied to the order of registration of sublicensing agreement, unless otherwise provided by legislation of the Republic of Kazakhstan.";

Add by paragraph 4-1 and 4-2 as follows:

"4-1. In order to register a licensing agreement application filled according to the prescribed form shall be sent to the expert organization.

The application shall include:

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

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

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

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

3) a document confirming payment of state duty.

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

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

The application must relate to one licensing agreement.

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

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

4-2. The provisions set forth in paragraphs 7-12 of Article 11 of this Law shall be applied in signing of licensing agreement.

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

paragraph 6 shall be amended as follows:

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

9) Add Paragraph 1 of Article 16 by the second part as follows:

"An application may be filed in the form of an electronic document, certified by digital signature.";

10) Paragraph 4 of Article 17 shall be amended as follows:

"4. Procedure for compilation, formulation and consideration of the application for the invention, the entry of data into the state register of inventions of the Republic of Kazakhstan, as well as the issuance of protection document shall be established by the authorized body. ";

11) Paragraph 4 of Article 18 shall be amended as follows:

"4. Procedure for compilation, formulation and consideration of the utility model, entering data into the state register of invention of the Republic of Kazakhstan, as well as the issuance of protection document shall be established by the authorized body. ";

12) Paragraph 4 of Article 19 shall be amended as follows:

"4. Procedure for compilation, formulation and consideration of applications for industrial design, entering data into the state register of industrial designs of the Republic of Kazakhstan, as well as the issuance of protection document shall be established by the authorized body. ";

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

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

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

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

add the words "or by the patentee";

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

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

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

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

17) in Article 24:

in the first part of paragraph 2:

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

the words "first part" shall be deleted;

add paragraph 6 with the third part as follows:

"The applicant may file an objection to the authorized body on the negative conclusion of the expert organization within three months from the date of its sending. The objection shall be considered by the Appellate Council within two months from the date of its receipt. ";

18) in the second sentence of paragraph 1 of Article 26, the words "may publish" with the word "publishes";

19) Article 32 shall be amended as follows:

"Article 32. Appellate Council

1. The Appellate Council shall be a specialized structural subdivision of the authorized body for the pre-court consideration of disputes with respect to objections raised in accordance with paragraph 10 of Article 22, paragraph 6 of Article 22-1, paragraph 3 of Article 23 and paragraph 2 of Article 29 of the present Law. The Regulations concerning the Appellate Council shall be approved by the authorized body.

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

1) on the decision of the authorized body (the conclusion of the expert organization) to refuse to issue the innovation patent for invention, patent for invention, utility model or industrial design;

2) against the issue of innovation patent for invention, patent for invention, utility model or industrial design.

The objection provided by subparagraph 1) of this paragraph, shall be submitted by the applicant or his successor, either directly or through a representative.

The objection provided by subparagraph 2) of this paragraph shall be submitted by any interested person, either directly or through a representative.

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

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

The objection shall be filed within the terms established by this Law.

Missed deadline for objections provided by subparagraph 1) of this paragraph may be re-established at the presence of justifiable reasons and the document on payment for re-establishment of the missed deadline. Application for re-establishment of missed deadline may be filed by the applicant within the terms established by this Act. The application shall be submitted simultaneously with an objection to the Appellate Council.

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

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

5. A person filed an objection and the patentee have the right to appeal against the decision of the Appellate Council within six months from the date of the decision. ";

20) add articles 32-1 and 32-2 as follows:

"Article 32-1. Grounds for refusal to consider objection in the Appellate Council

1. Acceptance of objection for consideration shall be refused if:

1) an objection according the legislation of the Republic of Kazakhstan is not subject to consideration in the Appellate Council;

2) an objection is not signed or signed by a person not having an authority to sign it;

3) an objection is submitted with the violation of the specified term and the possibility of its extension and re-establishment is lost;

4) an applicant within the prescribed period did not comply with requirements for content and procedure for submission of objection.

In case of the presence of these circumstances the person submitted the objection shall be notified that an objection shall not be taken into consideration and shall be considered as not submitted.

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

Article 32-2. Consideration of objection at the board meeting of the Appellate Council

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

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

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

1) inability to consider the objections at this meeting due to the absence of any of the persons entitled to take part in the consideration of objections;

2) need to submit the missing or additional documents (evidence) for a decision-making by parties;

3) the request of the parties.

3. Individuals participating in the consideration of objection have a right to:

1) become familiar with the case, make extracts, order and receive copies thereof;

2) present evidence;

3) participate in examination of the evidence;

4) question the participants of Appellate process;

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

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

Upon consideration of objections the following decisions are made:

- 1) to satisfy the objections;
  - 2) partially to satisfy the objections;
  - 3) to postpone consideration of objections;
  - 4) to dismiss the objection.
5. Within ten working days from the date of the decision-making the Board of Appellate Council shall prepare and send to the parties the decision of the Appellate Council. The decision of the Appellate Council is set out in writing and shall consist of an introduction, descriptive, reasons and conclusion.

The decision of the Appellate Council shall be signed by all members of the Board of Appellate Council.";

21) in the second part of Article 35 after the word "property" add the words ", an examination of contracts of assignment of protection documents and assignment of the right to receive it, as well as licensing agreements (sublicensing agreements)";

22) Article 36 shall be amended as follows:

"Article 36. Patent agents

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

To certificate candidates as patent agent the authorized body forms Certification Commission from the staff of the authorized institution and expert organization. The minimum number of members of the certification committee shall be not less than five employees.

Certification of candidates as patent agent is conducted by the authorized body at least once a year upon receipt of applications from candidates to the patent agent.

As a result of certification Certification Commission makes a decision to certificate or deny to certificate the candidate. The form of decision of Certification commission is approved by the authorized body.

The decision of Certification commission may be appealed in court within three months from the date of making such decision.

Successful candidates of qualification examination to patent agent receives a certificate of patent agent, its form is set by the authorized body.

For the certification of candidates to patent agents and issue the certificate state duty determined by the tax legislation of the Republic of Kazakhstan is collected.

2. Do not accepted for certification candidates to patent agents the following persons:

- 1) who in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities;
- 2) are employees of the authorized body and its subordinate organizations, as well as their close relatives, spouse (wife);
- 3) who has outstanding or unexpunged in the manner prescribed by law conviction for the offense;
- 4) are excluded from the register of patent agents in accordance with this Law.



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

- 1) based on the application of a patent agent, filed to the Certification commission;
- 2) for the period referring to persons who in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities, including the staff of the authorized body and its subordinate organizations;
- 3) in order to clarify the circumstances provided by subparagraphs 2) and 6) of paragraph 1 and paragraph 5 of Article 36-2 of this Law.

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

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

4. Patent agent as a representative of the applicant or patentee carries out activities related to the conduct of business with the authorized body and the expert organization on the legal protection of intellectual property. Conduct of business with the authorized body and the expert organization may also be made by the applicant and (or) the patent himself.

Physical persons who reside beyond the boundaries of the Republic of Kazakhstan, or foreign legal entities shall exercise the rights of the applicant, patentee as well as the rights of the interested individual in the authorized body and its organization through patent agents.

Physical persons who permanently reside in the Republic of Kazakhstan, but are temporarily situated beyond its boundaries, may exercise the rights of the applicant, patentee, as well as the rights of the interested person without a patent agent, specifying an address for the letter exchange within the Republic of Kazakhstan.

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

23) add articles 36-1 and 36-2 as follows:

"Article 36-1. The rights and obligations of a patent agent

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

- 1) advise on the protection of intellectual property rights, acquisition or transfer of intellectual property rights;
- 2) carry out works on the design and preparation of applications for inventions, utility models and industrial designs on behalf of and on behalf of the customer, principal, employer;
- 3) interaction with the authorized body and (or) expert organization for the protection of rights for inventions, utility models and industrial designs, including letter exchange, preparation and sending of the objections for the decision of examination, participation in meetings of the advisory council of experts organization;
- 4) assist in the preparation, consideration and onward dispatch for examination of licensing (sublicensing) agreements and (or) contracts of assignment.

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

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

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

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

#### Article 36-2. Revocation and cancellation of certificate of patent agent

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

- 1) on the basis of personal application submitted to the Certification Commission;
- 2) termination of citizenship of the Republic of Kazakhstan or at the exit for permanent residence outside the Republic of Kazakhstan;
- 3) In the event of interrupt of professional patent agent activity for more than five years;
- 4) upon the entry into force of a judgment of conviction, by which the patent agent was convicted of committing a crime;
- 5) in the case of the death of a patent agent or a his recognition as missing or declared dead;
- 6) In the event that a patent attorney incompetent or incapable.

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

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

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

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

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

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

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

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

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

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

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

9. The Law of the Republic of Kazakhstan dated July 23, 1999, "On mass media" (Bulletin of the Parliament of the Republic of Kazakhstan, 1999, № 21, Art. 771, 2001, № 10, art. 122; 2003, № 24, of Art. 175; 2005, № 13, art.; 53; 2006, № 1, Art. 5; № 3, Art. 22; № 12, art. 77; 2007, №

12, art. 88, 2009, № 2-3, Art. 7; № 15-16, Art. 74, 2010, № 5, Art. 23; № 22, art. 130; 2011, № 1, Art. 2; № 11, art. 102):

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

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

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

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

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

10. The Law of the Republic of Kazakhstan dated July 26, 1999 "On Trademarks, Service Marks and Appellations of Origin" (Bulletin of the Parliament of the Republic of Kazakhstan, 1999, № 21, Art. 776, 2004, № 17, art. 100; 2005, № 21-22, Art. 87; 2007, № 5-6, Art. 37; 2011, № 11, art. 102):

1) Article 1 shall be amended as follows:

"Article 1. The basic concepts used in this Act

The following basic concepts are used in this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4) Article 6:

subparagraph 4), 5) 7) 8) 9) 10), 11), 12), and 13) of paragraph 1 shall be deleted;

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

5) In Article 7:

in paragraph 1:

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

subparagraph 4) shall be deleted;

subparagraph 5) shall be amended as follows:

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

In subparagraph 3) of paragraph 2 the words "if the registration of such rights is made in accordance with the legislation of the Republic of Kazakhstan, before the priority date of the registered trade mark" shall be deleted;

6) add Article 8 with paragraph 3 as follows:

"3. Applications may be filed in the form of an electronic document, certified by digital signature. ";

7) Paragraph 6 of Article 9 shall be amended as follows:

"6. Procedure of preparation, processing and consideration of the application for a trademark is established by the authorized body. ";

8) subparagraphs 1) and 2) of paragraph 1 of Article 11 shall be amended as follows:

"1) preliminary examination - within one month from the date of receipt of the application when the contents of the application, the availability of the necessary documents in accordance with the requirements set out in Articles 5 and 9 of this Act are verified;

2) complete examination - within nine months from the date of filing, when the conformity of the proposed designation requirements set out in Articles 6 and 7 of this Act is verified. ";

9) Article 12 shall be amended as follows:

"Article 12. Examination decisions

1. Based on the results of preliminary examination, the applicant is informed either about the acceptance of the application for review, assignment of an appropriate number, filing date and priority date, or the refusal to accept the application for consideration in the form of a reasoned opinion.

2. The applicant may within three months from the date of receipt of preliminary decision on complete examination to provide a reasoned objection based on results of which the expert organization within three months from the date of receipt of objection shall make a final conclusion.

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

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

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

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

6. In case of disagreement with the conclusion of examination rendered in accordance with paragraph 2 of this Article, the applicant may file an objection on the expert opinion to the authorized body within three months from the date of its issuance. The objection shall be considered by the Appellate Council within four months from the date of its receipt. ";

10) Article 18-1 shall be amended as follows:

"Article 18-1. The acknowledgement of a trademark as well-known.

1. Trademark registered in the Republic of Kazakhstan or protected under international treaties, as well as designation used as a trademark without a legal protection in the Republic of Kazakhstan, but acquired a reputation in the Republic of Kazakhstan due to its active use shall be acknowledged as well-known in the Republic of Kazakhstan.

Application of natural or legal persons for the acknowledgement of a trademark as well known in the Republic of Kazakhstan is considered by the commission of the authorized body on the acknowledgement of a trademark as well known.

Regulation of the Commission on the acknowledgement of a trademark (service mark) as well known in the Republic of Kazakhstan shall be approved by the competent authority.

Based on results of the application examination Commission of authorized body shall approve a decision on the acknowledgement of a trademark as well known or refusal of such acknowledgement, which shall be sent to the owner of the trademark within ten working days from the date of the decision-making.

If the information submitted by the applicant confirms the date when the mark has become well known, which is other than it is specified in the application, the trademark shall be recognized as well known from the actual date.

The decision to refuse acknowledgement of a trademark as well known shall be made, if it is defined that:

information submitted by the applicant does not confirm the well-known status of trademark or is insufficient for acknowledgement of trademark as well-known;

there is a trademark which is identical or confusingly similar to the trademark of an applicant, protected or declared in the name of another person in respect of similar goods, with a an earlier priority.

Commission decision of the authorized body referred to in Paragraph 4 of this paragraph may be appealed in court.

2. Well known trademarks shall be protected in accordance with provisions of this Law for the trademarks.

3. Legal protection of well known trademarks shall be terminated:

1) in connection with the expiration of registration;

2) in connection with the entry into force of the court decision on annulment of the decision of Commission of the authorized body on acknowledgement of a trademark as well known.

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

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

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

11) in Article 19:

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

"Manufacture, importation, storage, offering for sale, sale of goods with the trademark, its use in advertising, billboards, printed publications, on official letterhead, a business document, the transfer of trademark rights or demonstration at exhibitions held in the Republic of Kazakhstan, as well as other introduction into civil circulation shall be recognized a use of the trademark. ";

paragraph 5 shall be deleted;

replace in paragraph 6 the words "at least" with the words "no more";

add paragraph 7 as follows:

"7. Use of the trademark by others on goods that have been put into circulation in the territory of the Republic of Kazakhstan by the right holder or with his consent shall not be a violation of the exclusive rights to the trademark. ";

12) Article 21 shall be amended as follows:

"Article 21. The transfer of trademark rights

1. The exclusive right to the trademark in respect of all designated of goods and services in the certificate, or parts thereof may be transferred to another person by the owner of the contract.

The transfer of trademark rights is not permitted if it can cause misleading about the product or its manufacturer.

Lapse of the right on the trademark, including the transfer of his contract, or in succession, must be registered by the authorized body.

2. The right to use the trademark may be granted by the trademark owner (licensor) to another person (the licensee) in respect of all designated goods and services in the certificate, or their parts under the license agreement.

A license agreement that permits the licensor to use the trademark shall contain a condition that the quality of goods or services will not lower the quality of goods and services of the licensor and that the licensor has the right to monitor the implementation of this condition.

In case of termination of the rights to the trademark, validity of the license agreement is terminated.

Lapse of the right on the trademark to another person does not entail the termination of the license agreement.

3. The assignment agreement on trademark or license agreement is concluded in writing and shall be registered by the authorized body. Non-observance of the written form or registration requirement entails the invalidity of the contract.

Registration of assignment agreement on trademark or license agreement is based on examination of the materials made by expert organization.

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

Application form is submitted to the expert organization to register an assignment agreement on trademark and a license agreement.

The application shall be accompanied by:

1) The original contract in quadruplicate, equipped with a title page. Each copy of the contract stitched, sealed with a paper seal, on which shall be recorded the number of sheets tied

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

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

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

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

3) document confirming payment of state duty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Expert organization makes a determination to refuse to register an assignment agreement on a trademark or a license agreement under the following grounds:

- 1) termination of the protection document, for which the contract is concluded, and there is no possibility of recovery;
- 2) failure to provide all the necessary materials and information required by paragraph 6 of this article within three months;
- 3) the parties don't have necessary rights to conclude a contract;
- 4) no licensee's powers in the licensing agreement for the registration of the sub-license agreement and the lack of a license agreement, approved by authorized body.

Within two working days after the conclusion the expert organization sends the conclusion to the authorized body stating the reasons for refusal.

8. In case of positive result of the examination the expert organization within five working days sends to the authorized body conclusion that there is no reason preventing the registration of an assignment agreement on a trademark or a license agreement.

The decision on registration or refusal to register an assignment agreement on a trademark or a license agreement is accepted by the authorized body within five working days from receipt of the expert organization opinion.

9. After the decision on registration of a contract authorized body:

- 1) draws an annex to the protection document for item of industrial property, for which the contract is concluded;
- 2) stamps on the front page of the contract on its registration with the date of registration and its registration number;
- 3) makes information about the contract in the register of registered contracts;
- 4) sends two copies of a registered contract and annex to the protection document to the address for correspondence specified in the statement;
- 5) sends the control copy of the contract with the conclusion to the expert organization to publish information on the registration of the contract.

The third and fourth copies of the contract are kept in the authorized body and expert organizations, respectively, and are control copies.

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

Any person may obtain an extract from the register of registered contracts that are open for publication.

Introduction of third parties with the text of the contract, and obtaining statements from it shall be allowed only with the written consent of the contracting parties.

In case if an authorized body made the decision to refuse registration of the assignment agreement on a trademark and the license agreement on the basis of the conclusion of the expert organization documents of the considered contract with the decision to refuse to register are returned to the address specified in the application.

10. The assignment agreement on a trademark and the license agreement shall take effect from the date of their registration by the authorized body.

13) Subparagraph 5) of paragraph 1 of Article 24 shall be deleted;

14) add Article 25 with paragraph 3 as follows:

"3. The state registration of the name of a geographical object as an appellation of origin, which is located in a foreign country is allowed if the name of this object is protected as a



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

15) Article 26 shall be amended as follows:

"Article 26. The designations registered as appellations of origin

1. As an appellation of origin can be registered contemporary or historical, formal or informal, full or abbreviated name of the country, region, locality, district or other geographical area, as well as a designation derived from this name, and their combination with the species name of the product.

2. Designation, although representing or containing the name of a geographical object, but included in the Republic of Kazakhstan in general use as a certain type of product designations not related to the place of its production is not recognized as appellation of origin. ";

16) in Article 27:

replace in subparagraph 1) the words "geographical indications" with the words "the names of geographical objects";

subparagraph 3) shall be amended as follows:

"3) containing the names of geographical objects not related to the place of production of goods.";

17) paragraph 3 of Article 29 shall be amended as follows:

"3. If a geographic area, which name is claimed as an appellation of origin, is in the territory of the Republic of Kazakhstan, the application shall be accompanied by the conclusion of the local executive body that the applicant manufactures goods within the geographical area, special features, quality, reputation or other characteristics of which mainly determined by the geographical natural conditions and (or) human factors.

The application for the granting the exclusive rights on the previously registered appellation of origin, in the territory of the Republic of Kazakhstan, shall be accompanied by the conclusion of the authorized body that the applicant produces a product within the geographical area with specific properties stated in the State Register of Appellations of Origin of the Republic of Kazakhstan.

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

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

In the case of proceedings through a representative, the application is attached Power of Attorney. ";

18) replace in paragraphs 2 and 3 of Article 37 the words "of geographical indications", "geographical indications" with the words "of the name of a geographic object", "names of geographical objects";

19) Article 39 shall be amended as follows:

"Article 39. Contesting registration of an appellation of origin and (or) the right to use the appellation of origin

1. Registration the appellation of origin and (or) the right to use the appellation of origin may be challenged and invalidated if it was made in violation of the requirements stipulated by Articles 26, 27 and 29 of this Act.

2. Registration the appellation of origin and (or) right to use, place of origin may be challenged and invalidated within five years from the date of information publication on state registration of an appellation of origin in the official gazette, if the use of an appellation of origin can circumvent the consumer about the product or its manufacturer due to the presence of a trademark that has an earlier priority, as well as widely known in the Republic of Kazakhstan acquired as a result of active use.

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

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

20) Article 41 shall be amended as follows:

"Article 41. Appellate Council

1. The Appellate Council shall be a specialized structural subdivision of the authorized body for the pre-court consideration of disputes with respect to objections raised in accordance with paragraph 5 of Article 12, paragraph 4 of Article 19, paragraph 2 of Article 23, paragraph 2 of Article 39 of this Act. Provisions of Appellate Council are approved by authorized body.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Article 41-1. Grounds for refusal to consider objections to the Appellate Council

Acceptance of objection to the consideration shall be refused if:

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

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

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

Article 41-2. Consideration of objections at the board meeting of the Appellate Council

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

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

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

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

3) at the request of the parties.

3. Individuals participating in the consideration of objection have a right to:

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

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

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

Upon consideration of objections the following decisions are made:

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

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

The decision of the Appellate Council shall be signed by all members of the Board of Appellate Council.”;

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

23) Article 46 shall be amended as follows:

"Article 46. Patent agents

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

To certificate candidates as patent agent the authorized body forms Certification Commission from the staff of the authorized institution and expert organization. The minimum number of members of the certification committee shall be not less than five employees.

Certification of candidates as patent agent is conducted by the authorized body at least once a year upon receipt of applications from candidates to the patent agent.

As a result of certification, Certification Commission makes a decision to certificate or to refuse to certificate the candidate. The form of decision of Certification commission is approved by the authorized body.

The decision of Certification commission may be appealed in court within three months from the date of making such decision.

Successful candidates of qualification examination to patent agent receives a certificate of patent agent, its form is set by the authorized body.

For the certification of candidates to patent agents and issue the certificate state duty determined by the tax legislation of the Republic of Kazakhstan is collected.

2. Do not accepted for certification candidates to patent agents the following persons:

1) who in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities;

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

3) who has outstanding or unexpunged in the manner prescribed by law conviction for the offense;

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

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

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

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

3) in order to clarify the circumstances provided by subparagraphs 2) and 6) of paragraph 1 and paragraph 5 of Article 46-2 of this Law.

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

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

4. Patent agent as a representative of the applicant or patentee carries out activities related to the conduct of business with the authorized body and the expert organization on the legal protection of intellectual property. Conduct of business with the authorized body and the expert organization may also be made by the applicant and (or) the patent himself.

Physical persons who reside beyond the boundaries of the Republic of Kazakhstan, or foreign legal entities shall exercise the rights of the applicant, patentee as well as the rights of the interested individual in the authorized body and its organization through patent agents.

Physical persons who permanently reside in the Republic of Kazakhstan, but are temporarily situated beyond its boundaries, may exercise the rights of the applicant, patentee, as well as the

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

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

24) add articles 46-1 and 46-2 as follows:

"Article 46-1. The rights and obligations of a patent agent

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

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

2) carry out works on the design and preparation of applications for registration a trademark, service marks and appellations of origin on behalf of and in the name of the customer, principal, employer;

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

4) assist in the preparation, consideration and onward dispatch for examination of license (sublicense) agreements and (or) contracts of assignment.

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

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

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

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

Article 46-2. Revocation and cancellation of certificate of patent agent

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

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

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

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

4) upon the entry into force of a judgment of conviction, by which the patent agent was convicted of committing a crime;

5) in the case of the death of a patent agent or a his recognition as missing or declared dead;

6) In the event that a patent attorney incompetent or incapable.

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

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

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

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

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

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

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

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

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

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

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

11. The Law of the Republic of Kazakhstan dated January 16, 2001 "On non-profit organizations" (Official Gazette of the Parliament of the Republic of Kazakhstan, 2001, № 1, Art. 8; № 24, art. 338; 2003, № 11, art. 56; 2004, № 5, Art. 30; № 10, art. 56; 2005, № 13, art. 53; 2006, № 8, Art. 45; № 15, art. 95; 2007, № 2, Art. 18; № 9, Art. 67; № 17, art. 141; 2010, № 5, Art. 23; № 7, Art. 28; 2011, № 2, Art. 21; № 5, Art. 43; Law of the Republic of Kazakhstan dated 11 October 2011 "On amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of religious activity and religious associations" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated October 15, 2011):

1) add Paragraph 1 of Article 11 after the words "civil union" with the words "unless otherwise provided by law,";

2) add paragraph 2 of Article 19 with the third and fourth parts as follows:

"The right of citizens to establish associations is realized either directly through combining the individuals or through the legal entities - public associations, except for political parties and trade unions.

The founders of the public association are individuals and (or) legal entities - public associations, except for political parties and trade unions, convening the founding congress (conference, meeting), at which the statutes and governing bodies are formed. The founders of public associations - individuals and (or) legal entities - have equal rights and equal responsibilities.";

12. The Law of the Republic of Kazakhstan dated June 29, 2001 "On the Legal Protection of Topographies of Integrated Circuits" (Bulletin of the Parliament of the Republic of Kazakhstan, 2001, № 13-14, Art. 181; 2004, № 17, art. 100; № 23 of Art. 142; 2005, № 21-22, Art. 87; 2011, № 11, art. 102):

- 1) subparagraph 7) of Article 4 shall be deleted;
- 2) Paragraph 1 of Article 11 shall be amended as follows:

"1. The author of topography or other right owner may register the topology through filing an application for registration by the authorized body.

Application for registration of the topography is submitted in Kazakh and Russian. Other application documents are submitted by the applicant in the state, Russian and other languages. If other application documents are submitted in another language, the application shall be accompanied by notarized translation into Kazakh or Russian. The translation must be submitted simultaneously with the application or not later than two months from the date of receipt of the application containing the documents in another language, to the competent authority. ";

- 3) Article 15 shall be amended as follows:

"Article 15. Patent agents

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

To certificate candidates as patent agent the authorized body forms Certification Commission from the staff of the authorized institution and expert organization. The minimum number of members of the certification committee shall be not less than five employees.

Certification of candidates as patent agent is conducted by the authorized body at least once a year upon receipt of applications from candidates to the patent agent.

As a result of certification, Certification Commission makes a decision to certificate or to refuse to certificate the candidate. The form of decision of Certification commission is approved by the authorized body. The decision of Certification commission may be appealed in court within three months from the date of making such decision.

Successful candidates of qualification examination to patent agent receives a certificate of patent agent, its form is set by the authorized body.

For the certification of candidates to patent agents and issue the certificate state duty determined by the tax legislation of the Republic of Kazakhstan is collected.

2. Do not accepted for certification candidates to patent agents the following persons:

- 1) who in accordance with the legislation of the Republic of Kazakhstan are prohibited from engaging in entrepreneurial activities;

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

- 3) who has outstanding or unexpunged in the manner prescribed by law conviction for the offense;

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

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

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

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

- 3) in order to clarify the circumstances provided by subparagraphs 2) and 6) of paragraph 1 and paragraph 5 of Article 15-2 of this Law.

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

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

4. Patent agent as a representative of the applicant or patentee carries out activities related to the conduct of business with the authorized body and the expert organization on the legal

protection of intellectual property. Conduct of business with the authorized body and the expert organization may also be made by the applicant and (or) the patent himself.

Physical persons who reside beyond the boundaries of the Republic of Kazakhstan, or foreign legal entities shall exercise the rights of the applicant, patentee as well as the rights of the interested individual in the authorized body and its organization through patent agents.

Physical persons who permanently reside in the Republic of Kazakhstan, but are temporarily situated beyond its boundaries, may exercise the rights of the applicant, patentee, as well as the rights of the interested person without a patent agent, specifying an address for the letter exchange within the Republic of Kazakhstan.

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

4) add articles 15-1 and 2.15 as follows:

"Article 15-1. The rights and obligations of a patent agent

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

1) advising on the protection of topographies of integrated circuits, acquisition or transfer of rights on topographies of integrated circuits;

2) carrying out works on the design and preparation of applications for registration of topographies of integrated circuits in the name and on behalf of the applicant;

3) interaction with the competent authority for registration of topographies of integrated circuits;

4) assist in the preparation, review and subsequent shipment to the examination of license (sublicense) agreements and (or) assignment agreements.

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

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

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

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

Article 15-2. Revocation and cancellation of certificate of patent agent

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

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

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

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

4) upon the entry into force of a judgment of conviction, by which the patent agent was convicted of committing a crime;

5) in the case of the death of a patent agent or a his recognition as missing or declared dead;

6) In the event that a patent attorney incompetent or incapable.



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

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

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

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

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

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

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

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

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

2) to dismiss the complaint.

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

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

13. The Law of the Republic of Kazakhstan dated December 15, 2006 "On Culture" (Official Gazette of the Parliament of the Republic of Kazakhstan, 2006, № 24, art. 147; 2008, № 23, Art. 124; 2010, № 5, Art. 23; № 10, art. 49; № 15, art. 71; № 24, art. 149; 2011, № 5, Art. 43; № 11, art. 102):

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

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

14. The Law of the Republic of Kazakhstan dated January 11, 2007 "On Information" (Bulletin of the Parliament of the Republic of Kazakhstan, 2007, № 2, Art. 13, 2009, № 15-16, Art. 74; № 18, art. 84; 2010, № 5, Art. 23; № 17-18, Art. 111; 2011, № 1, Art. 2; № 11, art. 102; The Law of the Republic of Kazakhstan dated July 21, 2011 "On Amendments and addenda to some legislative acts of the Republic of Kazakhstan on public service centers" published in the newspapers "Egemen Kazakstan" and "Kazakhstanskaya Pravda" dated August 6, 2011):

paragraph 3 of Article 2 shall be deleted.

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

President of  
the Republic of Kazakhstan

Nursultan Nazarbayev