



**On approval of the Regulation on the Commission on recognition of a trademark as well-known in the Republic of Kazakhstan**

*Unofficial translation*

Order of the Minister of Justice of the Republic of Kazakhstan dated August 28, 2018 No. 1318. Registered with the Ministry of Justice of the Republic of Kazakhstan on August 29, 2018 No. 17323.

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Under sub-paragraph 2) of paragraph 2 of Article 3 of the Law of the Republic of Kazakhstan “On Trademarks, Service Marks, Geographical Indications and Appellations of Origin of Goods” **I HEREBY ORDER:**

**Footnote. The preamble - as reworded by Order of the Minister of Justice of the Republic of Kazakhstan No. 736 dated 31.08.2022 (shall come into effect upon expiry of ten calendar days after the day of its first official publication)**

1. To approve the attached Regulation on the Commission on recognition of a trademark as well-known in the Republic of Kazakhstan.

2. The Department of Intellectual Property Rights in accordance with the procedure established by the legislation shall ensure:

1) state registration of this order;

2) within ten calendar days from the date of state registration of this order with the Ministry of Justice of the Republic of Kazakhstan, the direction hereof in Kazakh and Russian languages to the Republican State Enterprise on the Right of Economic Management "Republican Center of Legal Information of the Ministry of Justice of the Republic of Kazakhstan" for official publication and placement in the Reference Control Bank of the Regulatory Legal Acts of the Republic of Kazakhstan;

3) placing this order on the Internet resource of the Ministry of Justice of the Republic of Kazakhstan.

3. Control over the execution of this order shall be entrusted to the supervising Vice-Minister of Justice of the Republic of Kazakhstan.

4. This order shall be put into effect upon expiry of ten calendar days after the day of its first official publication.

*Minister*

*M. Beketayev*

Approved  
by the order no.1318 of the  
Minister of Justice  
of the Republic of Kazakhstan  
Dated August 28,2018

# **Regulation on the Commission on recognition of a trademark as well-known in the Republic of Kazakhstan**

## **Chapter 1. General Provisions**

1. The Regulations on the Commission on the Recognition of a Trademark as Commonly Known in the Republic of Kazakhstan (hereinafter - the Regulations) have been developed under Article 18-1 of the Law of the Republic of Kazakhstan “On Trademarks, Service Marks, Geographical Indications and Appellations of Origin of Goods” (hereinafter - the Law on Trademarks).

**Footnote. Paragraph 1 - as reworded by Order of the Minister of Justice of the Republic of Kazakhstan No. 736 dated 31.08.2022 (shall be enacted ten calendar days after the day of its first official publication).**

2. The Commission on recognition of a trademark as well-known in the Republic of Kazakhstan shall be a collegial body of the Ministry of Justice of the Republic of Kazakhstan.

3. In its activities, the Commission on recognition of a trademark as well-known in the Republic of Kazakhstan shall be governed by the Constitution of the Republic of Kazakhstan, the Law on Trademarks, as well as by this Regulation.

4. The following terms are used herein:

1) the Commission for the Recognition of a Trademark as Commonly Known in the Republic of Kazakhstan (hereinafter - the Commission) is a collegial body of the Ministry of Justice of the Republic of Kazakhstan;

2) a patent attorney - a capable national of the Republic of Kazakhstan, permanently residing on its territory, having higher education, work experience in the field of protection and defence of intellectual property rights for at least four years or having passed an internship in the Chamber of Patent Attorneys for at least one year, having passed certification and registered in the register of patent attorneys;

3) an expert organisation - an organisation established by the decision of the Government of the Republic of Kazakhstan, approved by Decree of the Government of the Republic of Kazakhstan No. 756 of July 11, 2002 “On Establishment of the National Institute of Intellectual Property of the Committee for Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan”, in the legal form of a republican state enterprise on the right of economic management, subordinate in its activities;

4) parties - natural and (or) legal persons, as well as patent attorneys who have filed applications for recognition of a trademark as well-known in the Republic of Kazakhstan;

5) an authorised body - the Ministry of Justice of the Republic of Kazakhstan (hereinafter referred to as the Ministry).

**Footnote. Paragraph 4 - as reworded by Order of the Minister of Justice of the Republic of Kazakhstan No. 736 dated 31.08.2022 (shall become effective ten calendar days after the date of its first official publication).**

## Chapter 2. Organization of activities of the Commission

5. The Commission shall:

1) consider applications of individuals and legal entities on recognition of a trademark as well-known in the Republic of Kazakhstan, submitted to the Ministry;

2) for consideration of disputes, engage specialist of the relevant profile from state bodies and employees of expert organizations, as well as shall organize working meetings when necessary;

3) hear representatives of the parties at meetings of the Commission and shall ask them questions;

4) decide on the recognition of a trademark as well-known or a decision on the refusal of such recognition, which shall be sent to the owner of the trademark within ten working days from the moment such a decision is made.

6. The composition of the Commission shall be approved by order of the Minister of Justice of the Republic of Kazakhstan (or his deputy) and shall consist of at least five employees of the Department of Intellectual Property Rights of the Ministry and an expert organization.

7. The Commission shall be chaired by the Vice Minister of Justice of the Republic of Kazakhstan. During the absence of the chairman, his functions shall be performed by the deputy chairman.

8. The Chairman shall:

1) manage its activities;

2) determine the schedule of the meeting of the Commission, as well as the venue and the time of meetings of the commission;

3) call the meetings of the Commission and shall chair them.

9. The materials of the meeting, after consultation with the Chairman of the Commission, shall be communicated to each of its members not later than five working days before the date of the meeting.

10. The functions of the working body of the Commission shall be vested in the Office of Industrial Property of the Department of Intellectual Property Rights of the Ministry.

**Footnote. Paragraph 10 - as reworded by Order of the Minister of Justice of the Republic of Kazakhstan No. 736 dated 31.08.2022 (shall take effect ten calendar days after the date of its first official publication).**

11. Commission meetings shall be considered eligible if at least 2/3 of its members are present.

12. Decisions of the Commission shall be made by a majority of votes by a show of hands and shall be considered adopted if the majority of votes from the total number of members of the Commission participating in the meeting are cast for them. In the event of equality of votes, the decisive shall be the vote of the presiding person.

13. In accordance with part 11 of item 2 of article 18-1 of the Law on Trademarks, the decision on refusal to recognize the trademark as well-known shall be made if it is established that:

- 1) the information is insufficient for recognition of the well-known status of a trademark;
- 2) there is a trademark identical or confusingly similar to the applicant's trademark, protected or declared in the name of another person in respect of similar goods, with earlier priority than the date from which the applicant applies for recognition of his trademark as well-known.

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