

Patent law of the Republic of Kazakhstan

Unofficial translation

The Law of the Republic of Kazakhstan of 16 July 1999 No. 427.

Unofficial translation

Chapter 1. General provisions

Article 1. Basic definitions used in this Law

The following basic definitions are used in this Law:

1) the exclusive right means a property right of the patent owner to use the industrial property subject matter in any manner at his sole discretion;

2) bulletin means an official periodical on the protection of industrial property subject matter;

2-1) Eurasian application - an application filed in accordance with the Eurasian Patent Convention of September 9, 1994, or the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention of September 9, 1994;

2-2) Eurasian patent - a patent issued in accordance with the Eurasian Patent Convention of September 9, 1994, or the Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention of September 9, 1994;

3) objects of intellectual property - the results of intellectual creative activity and means of individualization of participants in civil circulation, goods, works and services;

4) titles of protection include innovation patents, patents for inventions, industrial design patents and utility models patents granted in conformity with this Law;

5) excluded by the Law of the RK of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication);

6) license contract means a contract under which the patent owner (the licensor) grants another party (the licensee) the right to temporarily use the industrial property subject matter in a particular manner;

7) industrial property subject matter means inventions, utility models and industrial design ;

7-1) official industrial property subject matter – inventions, utility models, industrial designs created by an employee in the performance of his duties or specific tasks of the employer;

8) The Paris Convention means Paris Convention for the Protection of Industrial Property of March 20, 1983, with all further amendments and supplements.

9) patent owner means an owner of the title of protection;

10) conditions of patentability mean requirements provided for by this Law for the grant of legal protection for industrial property subject matter;

11) patented industrial property subject matter means an industrial property for which a title of protection has been granted;

12) patent attorneys means the citizens of the Republic of Kazakhstan, which in accordance with the legislation of the Republic of Kazakhstan have the right to represent individuals and legal entities to the authorized body and expert agency;

13) international application means an application filed under the Patent Cooperation Treaty of 19 June 1970.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); as amended by the laws of the Republic of Kazakhstan of 10.07.2012 No. 34-V (the act is entered into force since the day of its official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 2. Relations governed by the Patent Law

1. This Law shall regulate property and property related personal non-property relations, arising in connection with the creation, legal protection and use of industrial property subject matter.

2. Protection of other intellectual property subject matter (e.g. selection inventions, topographies of integrated circuits, trademarks, service marks, appellations of origin and other) shall be regulated by other legislative acts.

Article 3. Scope of Application of this Law

1. The provisions of this Law apply to industrial property objects, titles of protection for which are issued by an expert organization, as well as to industrial property objects, patents for which are issued based on international treaties in which the Republic of Kazakhstan participates.

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

Footnote. Article 3 is introduced changes by the Law of the Republic of Kazakhstan 9 July, 2004 No. 586; dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 4. State authorized body in the sphere of protection of inventions, utility models, and industrial designs

1. The state authorized body in the field of protection of inventions, utility models, and industrial designs (hereinafter referred to as “the authorized body”) is a state body, authorized by the Government of the Republic of Kazakhstan and exercising the state regulation in the field of protection of inventions, utility models, and industrial designs.

2. The competences of the authorized agency shall include:

1) participation in the implementation of the state policy in the field of legal protection of the subject of industrial property;

2) development and approval of:

rules for examination of applications for the subjects of industrial property;

rules for registration of the subjects of industrial property with the State Register of inventions, the State Register of utility models, the State Register of Industrial Designs and issuance of protection documents and their duplicates, declaring invalid and early termination of patents;

rules for registration with the relevant State Registers of transfer of an exclusive right, granting of the right to use the subject of industrial property, an open or compulsory license;

rules for provision of extracts from the relevant State Registers;

rules of appeals hearing by the Board of Appeal;

rules for consideration of applications for the subjects of industrial property in accordance with international treaties ratified by the Republic of Kazakhstan;

provisions on the attestation commission;

provisions on the appeal board;

provisions on the appeal commission;

3) determination of the order of publication information in the bulletin relating to the registration of the subjects of industrial property;

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

5) organization of the activity of attestation commission, appeals board and appeal commission;

6) exercise of other powers provided by this Law, other Laws of the Republic of Kazakhstan, Acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan of 09.07.2004 No. 586); as amended by the laws of the Republic of Kazakhstan of 05.07.2011 No. 452-IV (the act is entered into force since 13.10.2011) ; dated 20.06.2018 No. 161-VI (shall be

enforced upon expiry of ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 4-1. Expert organization

1. An expert organization established by decision of the Government of the Republic of Kazakhstan in the organizational and legal form of the Republican State Enterprise on the right of economic management, subordinate to the authorized agency shall:

- 1) examine applications for the subjects of industrial property;
- 2) register the subjects of industrial property with the relevant State Registers and issue protection documents and their duplicates, declare invalid and early terminate of patents;
- 3) register with the relevant State Registries transfer of the exclusive right, granting of the right to use the subject of industrial property, open or compulsory license;
- 4) keep relevant State Registries, bulletin and place them on its Internet resource;
- 5) provide extracts from relevant State Registers;
- 6) publish information in the bulletin relating to the registration the subjects of industrial property;
- 7) search for information on registered the subjects of industrial property on the basis of requests from interested parties;
- 8) consider applications for the subjects of industrial property in accordance with international treaties ratified by the Republic of Kazakhstan;
- 9) carry out other activities not prohibited by the legislation of the Republic of Kazakhstan.

2. The expert organization, in agreement with the authorized agency, approve prices for services in the field of protection the subjects of industrial property subject to the provision of full reimbursement of the costs incurred by the organization for their provision, break-even of its activities and financing from its own revenues.

Footnote. Was completed with article 4-1 according to the Law of the RK of 9 July, 2004 No. 586;; is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 5. Legal protection of the industrial property subject matter

1. The rights on invention, utility model, and industrial designs shall be protected by patent.

2. An utility model patent shall be granted based on the results of examination of the application for utility model patent.

A patent for an invention or industrial design shall be granted after the formal examination and substantive examination of the application.

Patent shall certify the priority, authorship and exclusive rights to the industrial property subject matter.

3. A patent for an invention shall be valid for twenty years from the date of filing the application.

With respect to an invention related to a medicine, a pesticide, for the use of which it is required to obtain permits in the manner established by the legislation of the Republic of Kazakhstan on permits and notifications, the validity period of the exclusive right and the patent certifying this right may be extended at the request of the patent holder, but not more than by five years.

The specified period is extended by the time elapsed from the filing date of the patent for the invention before the date of the first authorization to use the invention for less than five years.

A patent for a utility model shall be valid for five years from the date of filing the application. Its validity can be extended upon the request of the patent owner for not more than three years.

A patent for an industrial design is valid for ten years from the date of application. Its validity may be extended every time at the request of the patent owner for five years. In this case, the total duration of the patent should not exceed twenty-five years from the date of application.

4. The scope of legal protection provided by a patent shall be determined: for an invention and utility model - by their formula, and for an industrial design - by the combination of its essential features presented on images of the product appearance. For the interpretation of the formula of invention, utility model can be used description and drawings.

The effect of a protection document granted for a method for obtaining a product shall apply to the product directly obtained by this method.

Therewith, unless proven otherwise, a new product shall be considered as obtained by the protected method.

5. The right to be granted a title of protection, the rights arising from the registration of the application, the right to possess the title of protection and the rights under the title of protection may be transferred in whole or in part to another person.

6. No legal protection shall be granted under this Law for the industrial property subject matter that has been declared secret by the State. The procedure for handling the secret industrial property subject matters are to be determined by the authorized body.

Footnote. Article 5 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No.237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in ten calendar days after its first official publication); of 29.09.2014 No. 239-V (the act is entered into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.10.2019 No. 268-VI (shall be enforced upon the expiration of ten calendar days after the

day of its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Chapter 2. Conditions of patentability of industrial property subject matter

Article 6. Conditions of patentability of inventions

1. An invention shall be granted legal protection if it is new, involves an inventive step and capable of being industrially applicable.

An invention shall be deemed new if it is not anticipated by prior state of art.

An invention shall involve an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

The state of the art shall consist of any kind of information published anywhere in the world, and made available to the public, before the priority date of the invention.

When the novelty of an invention is being determined, the state of the art shall also include, upon the condition of their earlier priority, all applications filed in the Republic of Kazakhstan by other applicants for inventions and utility models (except for the revoked ones), and inventions and utility models that have been patented in the Republic of Kazakhstan.

An invention shall be deemed industrially applicable if it can be used in industry, agriculture, public health and other sectors of the economy.

2. Such technical solutions of any field that relate to the product (a device, substance, microorganism strain, the culture of plant cells or animals), method (the process of affecting a material object using material resources), as well as the application of known product or process for a new purpose, or the use of a new product for a particular purpose shall be protected as an invention.

3. The following shall not be recognized as patentable inventions:

- 1) discoveries, scientific theories and mathematical methods;
- 2) methods of organization and management of economy;
- 3) symbols, schedules, rules;
- 4) rules and methods of performing the mental activities, conducting the games;
- 5) computer software and algorithms;
- 6) projects and plans for structures, buildings, territories;
- 7) proposals concerning solely the outward appearance of manufactured articles;
- 8) proposals that are contrary to public interest, humanitarian principles or morality.

3-1. Patents shall not be issued for:

- 1) methods of human cloning and its clone;
- 2) methods for altering the genetic integrity of human germline cells;
- 3) the use of human embryos for commercial, military and industrial purposes.

4. Public disclosure of information, relating to the invention, by the author (applicant) or any person having obtained the information directly or indirectly from them, including the demonstration of an invention as an exhibit at an official or officially recognized international exhibition organized in the state-party to the Paris Convention, shall not be deemed as affecting the patentability of the invention, if the application for the invention was filed within six months after said disclosure of information or displaying it at the exhibition. The burden of proof of the foregoing shall be on the applicant.

Footnote. Article 6 as amended by the laws of the Republic of Kazakhstan of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 7. Conditions of patentability of utility model

1. A utility model includes technical solutions in any field related to a product (device, substance, microorganism strain, plant or animal cell culture), method (the process of performing actions on a material object using material means), as well as the use of a known product or method for a new purpose or a new product for a specific purpose, except for therapeutic and surgical methods for the treatment of humans or animals.

A utility model shall be granted a legal protection if it is new and capable of being industrially applicable.

A utility model shall be new if the sum of its essential features is not anticipated by prior state of art.

The state of the art shall include any kind of information published anywhere in the world and made available to the public, before the priority date of the claimed utility model, concerning the instruments of similar function, as well as on condition of their earlier priority submitted in the Republic of Kazakhstan, applications filed for inventions and utility models (except for the revoked ones), and inventions and utility models of similar function that have been patented in the Republic of Kazakhstan.

A utility model shall be considered industrially applicable if it can be practically used.

2. Public disclosure of information, relating to the utility model, by the author (applicant) or any person having obtained the information directly or indirectly from them, including the demonstration of a utility model as an exhibit at an official or officially recognized international exhibition organized in the state-party to the Paris Convention, shall not be deemed as affecting the novelty of the utility model, if the application for the utility model was filed within six months after said disclosure of information or displaying it at the exhibition. The burden of proof of the foregoing shall be on the applicant.

3. Solutions related to the objects specified in paragraphs 3 and 3-1 of Article 6 of this Law shall not be protected as utility models.

Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 8. Conditions of patentability of industrial designs

1. The industrial design shall include an artistic design solution of product of industrial or cottage industry, determining the product appearance. An industrial design shall be granted legal protection if it is new, original. An industrial design shall be new if the set of its essential features reflected in the product images shall be unknown from the information that has become publicly available in the world before the priority date of the industrial design. When establishing the novelty of an industrial design takes into account previously filed in the Republic of Kazakhstan by others unrevoked applications for identical industrial designs, as well as patented in the Republic of Kazakhstan industrial designs (from the date of priority). Industrial design recognizes the original if it's essential features determine the creative nature of the product characteristics.

2. The following solutions shall not be recognized as patentable industrial designs:

- 1) solutions that are determined exclusively by the technical function of an article;
- 2) solutions that relate to architectural works (with the exception of minor architectural forms) and industrial, hydraulic and other stationary structures;
- 3) excluded by the Law of the RK of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication);
- 4) solution that relate to subject matter of unstable shape such as liquids, gaseous and dry substances and the like;
- 5) articles that are contrary to the public interest, humanitarian principles or morality.

3. Public disclosure of information, relating to the industrial designs, by the author (applicant) or any person having obtained the information directly or indirectly from them, including the demonstration of an industrial design as an exhibit at an official or officially recognized international exhibition organized in the state-party to the Paris Convention, shall not be deemed as affecting the patentability of the industrial designs, if the application for the industrial design was filed within six months after said disclosure of information or displaying it at the exhibition. The burden of proof of the foregoing shall be on the applicant.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); of 07.04.2015 No.300-V (the act is entered into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 3. Authors and patent owners

Article 9. Author of industrial property subject matter

1. An individual whose creative work resulted in industrial property subject matter shall be recognized as the author thereof.

2. Where an industrial property subject matter results from joint creative work of two or more individuals, those persons shall be recognized as the joint authors thereof. The conditions for exercising author's rights shall be determined by an agreement between them.

Individuals shall not be recognized as joint authors where they have not made a personal creative contribution to the industrial property subject matter, but have simply given the author technical, organizational or material assistance or helped him in securing the legal rights in the industrial property subject matter or in using it.

3. The authorship right shall be an inalienable personal right and shall enjoy the protection interminably.

4. Excluded by the Law of the RK of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication).

5. In order to promote and support raising awareness of inventive activity in the Republic of Kazakhstan, the authorized body, together with the authorized bodies in the field of science, state support for innovation activities and other interested bodies, shall develop and determine the procedure for holding the annual competition " Shapagat " for the selection of socially and economically significant, competitive, environmentally friendly inventions, as well as awarding the title of "Honored Inventor" for the authors of the most important and widely used inventions.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); of 29.09.2014 No.239-V (the act is entered into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.06.2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 10. Patent owner

1. A title of protection shall be granted to:

- 1) the author (or authors) of the industrial property subject matter;
- 2) the employer in cases provided for by paragraph 2 of this article;
- 3) their successor (or successors) including the assignee (or assignees);
- 4) the beneficiaries provided for in this paragraph jointly subject to agreement between them.

2. The right to obtain a title of protection for service industrial property subject matter shall belong to the employer, unless otherwise provided for in the contract between him and the employee.

3. The right to obtain a title of protection for invention, utility model and industrial design, shall belong to the author where the invention, utility model and industrial design created by him is not associated with the performance of his personal duties or specific tasks received from the employer, but with the use of information as well as technical and other means of the employer, unless otherwise provided for by the contract between the author and employee.

In the event when a service industrial property subject matter results from joint creative work of two or more persons, which include a person who is not an employee of the employer, the right of such person in respect of the service industrial property subject matter shall be defined by the contract concluded with the said employer, and other authors.

In the event that the service industrial property subject matter are created by authors as a result of joint work of two or more employers on the basis of an agreement, the rights of the employers for the said service industrial property subject matter shall be determined by the agreement between them.

4. In the event of creating a service industrial property subject matter an author is to notify in writing the employer about the said fact within one month from the date of revealing by him a created industrial property subject matter.

Notifications are to be signed by the author (or authors) and shall contain the following information:

- 1) the author's family name, first name and patronymic (if any), and his occupation;
- 2) the name of the service subject of industrial property;
- 3) the conditions and place of its creation, the intended use;
- 4) a description that has been drawn up fully enough and is capable of revealing an invention, defining its category and assessing the applicability of an industrial property subject matter in the employer's activities.

The employer shall be obliged to accept and register the notification filed by the author about the creation of the service industrial property subject matter on the date of submission, and the authors shall be notified in writing in this regard.

If the description and other information required for the registration of application are not sufficient, the employer shall have the right to request from the employee additional materials about the service industrial property subject matter, which are to be provided within one month from the date of receipt of such request. In this case, the deadline specified in paragraph 7 of this article shall be suspended and resumed upon receipt of the requested information.

5. If an employer has not been notified by the employee of the service industrial property subject matter for which the employer has the right to be granted a title of protection, the

deadline specified in paragraph 7 of this article shall begin from the date when the employer became aware of its creation.

If the fact of creation of the service industrial property subject matter is found by an employer he shall be obliged to notify in writing the author. Therewith, if the right to be granted a title of protection for service industrial property subject matter belongs to the employer, the employer shall notify the author of launching the application, and the author shall, upon the request of the employer, provide in writing additional information required to process an application for a service industrial property subject matter, as well as the list of authors.

6. In the event that the employer failure in obtaining a title of protection for a service industrial property subject matter after filing an application or to maintain the title of protection in force he shall timely notify the author in writing about it and free give the author the right to be granted a title of protection or the received title of protection.

7. Where the employer, within four months after having been notified by the author, fails to file an application, fails to assign his rights to file an application to another person, and fails to notify the author of his decision to keep the industrial property subject matter secret, the author shall have the right to be granted a title of protection. In this case, the employer has the priority right to use the corresponding industrial property subject matter in own production under contract with the patent owner.

8. Neither party in order to secure their rights in respect of the service industrial property subject matter shall be entitled to file an application to be granted a title of protection before the expert agency unless has notified of this the other party.

9. The size, terms and procedure for payment of remuneration to the author for a service invention, utility model or industrial design shall be determined by agreement between him and the employer. If it is impossible to measure the contribution of the author and the employer in the creation of a service invention, utility model or industrial design, size, terms and procedure for payment of remuneration to the author shall be determined by legislative acts of the Republic of Kazakhstan.

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan of 10.07.2009 No. 179-IV (order of enforcement see Article 2 of the Law); as amended by the laws of the Republic of Kazakhstan of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication); of 31.10.2015 No. 382-V (the act is entered into force in ten calendar days after its first official publication).

Chapter 4. The exclusive right to use industrial property subject matter

Article 11. The exclusive right to use the subjects of industrial property and conditions for issuing compulsory non-exclusive license

Footnote. Heading of Article 11 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

1. The exclusive right to use at his discretion the protected industrial property subject matter shall belong to the patent owner.

The patent owner shall exercise the exclusive right to use the protected industrial property subject matter during the validity of title of protection from the date of publication in official bulletin the information on granting the title of protection.

2. The use of industrial property subject matter shall be deemed to include the manufacture, use, import, and offer for sale, sale, and any other form of distribution for commercial purposes or stocking for above purposes of products containing the industrial property subject matter, and the use of the protected method.

A protected invention or utility model shall be deemed used in a product, and a protected method shall be deemed applied, if the product contains or the process involves every essential feature of the invention or utility model stated in an independent claim, or an equivalent feature known as such in this art at the date of start of the use.

A using of protected method of preparing the product shall be deemed the introduction into civil circulation or storage of product manufactured for this purpose directly made by virtue of this method.

A product shall be recognized containing a protected industrial design, if it contains all its essential features presented on the appearance images.

3. A patent owner shall be required to use industrial property subject matter.

The relations in regards the use of industrial property subject matter, the title of protection for which belongs to two or more persons, shall be determined by the agreement between them. Where no such agreement exists, each of the patent owners shall be entitled to use the patented industrial property subject matter at his discretion, but shall not have a right to grant a license on the title of protection or assign the title of protection to another person without the consent of other owners.

A patent owner shall have the right to use a warning sign indicating that the industrial property subject matter is patented.

4. In the event that an industrial property subject matter has failed be continuously used by the patent owner and his refusal to conclude a license agreement on reasonable commercial terms and conditions within ninety calendar days from the date of the request, any person may apply to the Court to grant him a compulsory non-exclusive license, if the industrial property subject matter has not been continuously used since the first publication of the particulars of the grant of the title of protection for industrial property subject matter during any three years preceding the date of the filing of such application. If the patent owner fails to prove that the non-use is caused by valid reasons, the court shall grant the said license determining the scope of the use, and terms, the amount and procedures of payment. The

amount of payment shall not be lower than the market value of the license to be determined in accordance with the established practice.

Compulsory non-exclusive license is also issued in the following cases:

- 1) the need to ensure national security or protection of public health;
- 2) patent owner abuse his exclusive rights, promotion or abuse of such exclusive rights by another person with his consent.

Assignment in accordance with the provisions of this paragraph, a compulsory non-exclusive license to use the invention relating to semiconductor technology, allowed solely for its non-commercial use in State and public interests or modify provisions which judicially recognized violating the requirements of legislation of the Republic of Kazakhstan in the field of competition.

Any compulsory non-exclusive license shall be issued primarily to meet the needs of the domestic market of the Republic of Kazakhstan, except in cases where such a license is requested for the medicinal product or manufacturing process of the medicinal product for the purposes of the export of patented medicine or medicine, obtained through the patented process in the territory, where is no or insufficient manufacturing facilities, in accordance with the international treaties ratified by the Republic of Kazakhstan.

The person to whom a compulsory license was granted may assign the right to use the industrial property subject matter to another person only in consort with the enterprise that uses the said subject matter.

The effect of a compulsory license may be avoided by court in the event that the circumstances that caused the grant of such license cease to exist.

5. The patent owner who cannot use the industrial property subject matter without infringing the rights of the owner of another title of protection for the industrial property subject matter who has declined an offer to conclude a license contract on commercially acceptable terms, shall have the right to recourse to the court requesting the grant of compulsory non-exclusive license to use the industrial property subject matter in the territory of the Republic of Kazakhstan.

If the patent owner who cannot use the industrial property subject matter without infringing the rights of the owner of another title of protection proves that the industrial property subject matter represents important technical achievement with significant economic advantages over the industrial property subject matter of the owner of the other title of protection, the court may decide to grant him a compulsory non-exclusive license.

While granting the said compulsory license, the court shall determine the scope of use of the industrial property subject matter, the title of protection for which belongs to another person, the terms, amount and procedures of payment. The amount of payment shall not be lower than the market value of the license to be determined under the established practice.

The right to use the industrial property subject matter acquired on the basis of this provision may be transferred only together with the title of protection granted for the industrial property subject matter in connection with which such right was granted.

In the event that the compulsory license, as provided hereunder, is granted, the patent owner for a title of protection, the right to use of which was granted on the basis of such license, shall also be entitled to get a license for the use of the dependent invention, in respect of which a compulsory license was granted.

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

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

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

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

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

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

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

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

14. A title of protection for industrial property subject matter and/or the right to obtain the title of protection may be inherited or acquired by succession.

15. The patent owner shall be required to pay the prescribed annual maintenance fee, in effect on the date corresponding to the date of application.

The first payment for the maintenance of the title of protection in force shall be made within two months from the date of publication of the particulars on the grant of the title of protection and includes payment for previous years, starting from the date of application.

16. The size of fees for maintaining validity on the territory of the Republic of Kazakhstan of a Eurasian patent is established by the authorized body.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); as amended by the laws of the Republic of Kazakhstan of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication); of 27.10.2015 No. 365-V (the act is entered into force in ten calendar days after its first official publication); dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 11-1. Transfer of the exclusive right to the subject of industrial property

1. The patent owner shall have the right to transfer the exclusive right belonging to him to the subject of industrial property to another individual or legal entity under an assignment agreement.

An agreement on transfer of the exclusive right to the subject of industrial property shall be concluded in writing within the period of validity of this exclusive right.

2. The transfer of the exclusive right to the subject of industrial property shall be subject to registration with the relevant State Register.

Footnote. Chapter 4 is supplemented by Article 11-1 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 12. Acts not recognized as infringements on the executive right of the patent owner

The following shall not constitute acts infringing the executive right of the patent owner:

1) the use in the construction or in the operation of transportation vehicles of foreign countries (river and marine, air, automobile and space crafts) of a product, incorporating a protected industrial property subject matter, provided that such transportation vehicles are located in the Republic of Kazakhstan temporarily or accidentally and that the said product is used solely for the needs of transportation vehicle. Such acts shall not constitute an infringement of the exclusive right of the patent owner that relate to the transportation vehicles belonging to the individuals and legal entities of foreign countries granting similar right to individuals and legal entities of the Republic of Kazakhstan;

2) conducting scientific research or scientific experiment on a product, incorporating a protected industrial property subject matter, if the purpose of such scientific research or experiment is not obtaining the income;

3) the use of such product in extreme situations (natural disasters, catastrophes, and dramatic accidents), provided that the patent owner is notified as soon as possible and paid a commensurate compensation;

4) the use of such product for private, family, domestic or other non-commercial purposes, if the purpose of such use is not obtaining the income;

5) in urgent cases, one-time production in pharmacies, based on the prescriptions;

6) import into Republic of Kazakhstan, the use, offer for sale, selling, any other form of distribution for commercial purposes or stocking for above purposes of products containing the industrial property subject matter, if such product has been earlier distributed for commercial purposes in the Republic of Kazakhstan by the patent owner or by another person, authorized by the patent owner.

Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication);

of 27.10.2015 No.365-V (the act is entered into force in ten calendar days after its first official publication).

Article 13. Right of prior use and provisional legal protection

1. Any individual, who, before the priority date of the industrial property subject matter and independently of the author, had conceived and was using in good faith in the territory of the Republic of Kazakhstan a similar solution, or was making the necessary preparations for such use, shall have the right to proceed with that use free of charge, provided that the scope thereof is not extended (right of prior use).

The right of the prior use may only be transferred to another person together with the enterprise, where the use of similar solution or the necessary preparations for use have been made.

2. Any individual, who, after the priority date of the protected industrial property subject matter but before the date of publication of the particulars of the granted patent for invention, industrial design or the utility model patent, had started the use of the industrial property subject matter, shall, at the request of the patent owner, stop such use. The said person shall not be required to compensate the patent owner for damages sustained in the result of such use.

3. The industrial property subject matter displayed as an exhibit at an official or officially recognized international exhibition shall enjoy provisional legal protection during the period between the date of its display and the date of first publication of the particulars of the granted title of protection, provided that an application for the protection of the industrial property subject matter has been filed within six months from the date of its display at the exhibition.

4. Any individual using the industrial property subject matter during the period set forth in paragraph 3 of this article shall, after the grant of the title of protection, pay compensation to the patent owner. The amount of compensation is to be determined by agreement between the parties.

The parties may terminate the case by settlement agreement or the agreement relating to the settlement of the dispute (conflict) in the mediation procedure, which shall be signed by the parties and approved by the Court.

Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication).

Article 14. Granting the right to use the subject of industrial property

1. Any person other than the patent owner, (licensee) shall have the right to use a protected subject of industrial property with the permission of the patent owner (licensor) on the basis of a licensing contract, an integrated entrepreneurial license agreement or another agreement with a licensor that includes the terms of a licensing contract (licensing contract).

2. A licensing contract may provide for the licensor granting the right to use the subject of industrial property to the licensee:

1) with reservation the ability of the licensor to use it and the right for issuance a license to others (a simple, non-exclusive license);

2) with reservation the ability of the licensor to use it, but without the right for issuance a license to other persons (the only license);

3) without reservation the ability of the licensor to use it and without the right for issuance a license to other persons (exclusive license).

In the case of no specifying the terms of use the right to use the subject of industrial property in licensing contract shall be granted on the terms of a simple, non-exclusive license.

The licensee shall have the right to use the subject of industrial property throughout the territory of the Republic of Kazakhstan, unless otherwise provided in the licensing contract.

The validity of the right to use the subject of industrial property shall be determined in the licensing contract and may be extended by mutual agreement of the parties.

In case of failure to indicate the term in the licensing contract, the validity of the right to use the subject of industrial property shall be five years from the date of registration of this contract.

Termination of the exclusive right to the subject of industrial property shall entail termination of the licensing contract.

The licensee shall have the right to transfer to another person (sub-licensee) the right to use the subject of industrial property on the basis of a sub-licensing contract or a complex entrepreneurial sub-licensing contract subject to the terms of the licensing contract. Responsibility to the licensor for the actions of the sub-licensee shall be rest with the licensee, unless otherwise provided by the licensing contract.

The transfer of the exclusive right to the subject of industrial property to another person shall not entail the termination of the licensing contract.

3. The contracts on granting the right to use the subject of industrial property and additional contracts shall be concluded in writing and shall be registered with the relevant State Register.

Footnote. Article 14 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 14-1. Terms of registration the transfer of the exclusive right and granting the right to use the subject of industrial property

1. Registration the transfer of the exclusive right and the granting of the right to use the subject of industrial property shall be carried out by entering information into the relevant State Registries within ten working days following the day of receipt the application of the interested party to the contract.

Not meeting the written form and (or) registration requirements shall entail the nullity of the contract.

2. Amendments to the relevant State Registers in connection with termination of the contract or cancellation of registration on the basis of a court decision that has entered into force take place within one working day following the day of receipt of the application by the interested party to the contract.

Registration information can be corrected for technical errors that shall not change their affiliation, nature or content, within one working day from the date of receipt of the application of the interested party and subject to written notification to other parties to the contract.

3. The grounds that temporarily blocking registration shall be:

1) existence of a period for the restoration of the terminated validity of the exclusive right to the subject of industrial property;

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

3) inconsistency of information in the submitted documents with information in the relevant State Registries or in the Register keeping in accordance with an international agreement ratified by the Republic of Kazakhstan;

4) the presence in the contract of provisions that contradict the legislation of the Republic of Kazakhstan and international treaties ratified by the Republic of Kazakhstan.

4. In the case of discovery the grounds specified in Paragraph 3 of this Article shall be sent a request to the applicant for their elimination. From the date of sending the request, the registration period shall be suspended for three months.

5. The grounds for refusal of registration shall be:

1) expiration of the term for the restoration of the terminated validity of the exclusive right to the subject of industrial property;

2) expiration of the term for the removal of the grounds that temporarily blocking registration;

3) receiving an application for registration from a person who is not a party to the contract ;

4) non-registration of a licensing contract or additional contract to it;

5) whether the party has accepted obligations that prevent the granting of the right to use the subject of industrial property.

Footnote. Chapter 4 is supplemented by Article 14-1 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten

calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 14-2. Open license

1. The patent owner may submit the application to the expert organization for granting the right to use the subject of industrial property to any person (open license).

2. The application of the patent owner on granting the right to the open license shall not be subject to revocation and remain validity for three years from the date of its registration. Within the specified period, the payment for keeping the protection document in force shall be reduced by 50 percent from the year following the year of registration with the relevant State Register.

3. A person who has expressed a desire to purchase an open license must enter into a written contract with the patent owner.

Disputes under the terms of the contract shall be considered by the court.

4. The granting of the right to the open license shall be subject to registration within one working day from the date of receipt of application of the patent owner or interested person with the necessary documents attached.

Footnote. Chapter 4 is supplemented by Article 14-2 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 15. Infringements of the exclusive right of the patent owner

1 Any individual or legal entity using the protected industrial property subject matter in a manner contrary to the provisions of this Law shall be deemed to be infringing the exclusive right of the patent owner (the infringer of the title of protection).

An unauthorized manufacturing, utilization, importation, stocking, offering for sale, sale and any other distribution for commercial purposes of products incorporating the protected industrial property subject matter, and the use of the protected method or the distribution for commercial purposes of a product obtained directly through such method shall be deemed to constitute an infringement of the exclusive right of the patent owner (infringement of the title of protection).

A new product shall be deemed to have been manufactured by a protected method unless proved contrary.

2. The aggrieved patent owner shall be entitled to demand that:

1) cease the infringement of the title of protection;

2) the infringer compensate the owner the damages sustained, including moral damage, from the date of first publication of particulars of the grant;

3) recover the owner the amount of profits derived from the unauthorized use of the protected industrial property subject matter, in lieu of compensation for damage sustained from the date of first publication of particulars of the grant of the title of protection;

4) the infringer pay the owner compensation in an amount from 10 000 to 50 000 thousand the monthly calculated index provided for by the legislation. The amount of compensation shall be determined by court in lieu of compensation for damages sustained or payment of the derived profits;

5) the infringing products that have been commercialized or stocked for commercial purposes as well as materials that have been especially used for infringing of the title of protection, from the date of first publication of particulars of the grant;

6) information on the infringement, including the particulars of the owner of the infringed right, be published as a mandatory requirement.

3. Requirement to the infringer of the title of protection may also be claimed by the license holder unless otherwise provided for in the license contract.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan of 9 July, 2004 No. 586.

Chapter 5. Procedure of obtaining title of protection

Article 16. Filing of application for the grant of a title of protection

1. An application for the grant of a title of protection shall be filed with the expert agency by a person entitled to obtain the title in accordance with paragraph 1 of article 10 of this Law (hereinafter referred to as “the applicant”).

2. The application for the grant of the title of protection shall be written in the Kazakh or Russian language. Other elements of the application may be written in Kazakh, Russian or in other languages. In the event that the elements of the application are written in a language other than the Kazakh or Russian, the application shall be accompanied by a Kazakh or Russian translation of those elements. The required translation is to be submitted within two months following the receipt by the expert agency of the application containing elements written in another language. This term may be extended for a period not exceeding two months subject to payment of the prescribed fee.

If the applicant fails, within the prescribed time limit, to submit the required translation, the application shall be deemed not to have been filed.

3. The application and information on the course of its consideration shall not be provided to third parties, with the exception of cases provided by the Laws of the Republic of Kazakhstan.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after

its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 17. Application for the grant of a title of protection for an invention

1. The application for the grant of a title of protection for an invention (hereinafter referred to as “the invention application”) shall relate to one invention only or a group of invention so linked as to form a single inventive concept (unity of invention requirement).

2. The invention application shall contain the following:

1) the request for the grant of a title of protection, indicating the names of the author (or authors) and the person (or persons) in whose name the grant of a title of protection is sought, and the addresses of their residences or places of business;

2) the description, disclosing the invention in sufficient detail for it to be carried out by a specialist in the field;

3) the claims, stating the essential features of the industrial property subject matter. The claims shall be clear and adequate, and shall be fully supported by the description;

4) the drawings and other materials, where indispensable for the understanding of the disclosure;

5) the abstract;

6) a power of attorney if the application is filed via a representative;

7) *(excluded - of 2 March, 2007 No. 237).*

A document confirming payment for applying the prescribed amount, and a document confirming the grounds for reducing its size, are submitted together with the application or within two months from the date of receipt of the application.

Subject to appropriate payment, this period shall be extended by two months.

In case of non-submission of documents on payment within the prescribed period, the application shall be deemed not submitted.

3. The filing date of an invention application shall be determined by the date of receipt by the expert agency of the elements referred to in paragraphs 1), 2) and 4) of the first part of paragraph 2 of this article, and where the specified elements have not been submitted simultaneously, the filing date shall be determined by the date of receipt of the last element.

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

Footnote. Article 17 1 as amended by the Law of the Republic of Kazakhstan of 9 July, 2004 No. 586; of 2 March, 2007 № 237 (the act is entered into force since the day of its official publication); of 12.01.2012 № 537-IV (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (

shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 18. Application for the grant of a patent for a utility model

1. The application for the grant of a patent for a utility model (hereinafter referred to as “the utility model application”) shall relate to one utility model only or to a group of utility models so linked as to form a single creative concept (unity of utility model requirement).

2. The utility model application shall contain:

1) the request for the grant of a patent, indicating the names of the author (or authors) of the utility model and the person (or persons) in whose name the grant of a patent is sought, and the addresses of their residences or places of business;

2) the description, disclosing the claimed utility model in sufficient detail for it to be made ;

3) the claims, stating the essential features of the utility model and fully supported by the description;

4) the drawings;

5) the abstract;

6) a power of attorney if the application is filed via a representative.

The utility model application shall be accompanied by proof of payment of the prescribed fee, or by proof certifying the exemption from the prescribed fee which may be either submitted together with the application or within two months following the date of its receipt.

If the applicant fails, within the prescribed time limit, to submit a document containing proof of payment of the prescribed fee, the application shall be deemed not to have been filed.

3. The filing date of a utility model application shall be determined by the date of receipt by the expert agency of the application for the grant of a patent for a utility model, stating the name and forename (and the middle name if any) or the official name of the applicant, the description, the claims and drawings, and where the specified elements have not been submitted simultaneously, the filing date shall be determined by the date of receipt of the last element.

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

Footnote. Article 18 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 19. Application for the grant of an industrial design patent

1. The application for the grant of an industrial design patent (hereinafter referred to as “the industrial design application”) shall relate to one industrial design only or to a group of industrial designs so linked as to satisfy unity of industrial design requirement.

2. The industrial design application shall contain:

1) the request for the grant of a patent, indicating the names of the authors of the industrial design and the persons in favor of whom the grant of a patent is sought, and the addresses of their residences or places of business;

2) a set of reproducible images of the product appearance, giving a complete detailed view of the essential features of the industrial design;

3) (excluded - of 2 March, 2007 No. 237);

4) description of the industrial design;

5) a power of attorney if the application is filed via a representative.

The industrial design application shall be accompanied by proof of payment of the prescribed fee, or by proof certifying the exemption from the prescribed fee which may be either submitted together with the application or within two months following the date of its receipt.

If the applicant fails, within the prescribed time limit, to submit a document containing proof of payment of the prescribed fee, the application shall be deemed not to have been filed.

3. The filing date of an industrial design application shall be determined by the date of receipt by the expert agency of the request for the grant of a title of protection for an industrial design, stating the name and forename (and the middle name if any) or the official name of the applicant, the description, the layout of the article, and where the specified elements have not been submitted simultaneously, the filing date shall be determined by the date of receipt of the last element.

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

Footnote. Article 19 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 20. Priority of industrial property subject matter

1. The priority of industrial property subject matter shall be determined by the filing date of the industrial property application that is determined in accordance with paragraph 3 of article 17, paragraph 3 of article 18 and paragraph 3 of article 19 of this Law.

2. Priority may be determined by the filing date of the first application in any state party to the Paris Convention, and with any international or regional organization specified in the Paris Convention (hereinafter referred to as “Convention priority”) if the invention application or the utility model application has been filed with the expert agency within 12 months, and in the case of the industrial design application – within six months from the said date. If, for reasons beyond the control of the applicant, an application seeking Convention priority failed to be filed within the prescribed period, such period may be extended for not more than two months.

The applicant wishing to make use of Convention priority shall make a declaration to that effect to be submitted to the expert agency when filing the application or within two months following the date of receipt of the application by the expert agency, and shall attach thereto a copy of the first application or shall furnish it no later than six months from the date of receipt of the application by the expert agency. The applicant shall lose the right for Convention priority if he fails to provide the said document. In this case, priority shall be determined by the date of filing with the expert agency of the application.

3. Priority may be determined by the date of receipt of additional documents if they are submitted by the applicant as a separate application, provided that it has been filed within three months following the date of receipt by the applicant of a notification from the expert agency to the effect that the additional data cannot be taken into consideration since they are recognized as modifying the essence of the claimed solution, and on condition that as of the date of filing the separate application, the application, containing the said additional data, has not been revoked and has not been recognized as revoked.

4. Priority may be determined by the date of filing by the same applicant, with the expert agency, of the earlier application, disclosing the industrial property subject matter, not revoked or deemed revoked as of the date of filing of the application, given that the application, for which such priority is sought, is filed not later than within twelve months from the filing date of the earlier invention application and six months from the filing date of the utility model application or industrial design application. In such case, the earlier application shall be deemed to have been revoked.

Priority may not be established for the filing date of an application, on which earlier application had been sought.

5. Priority of the industrial property subject matter under a divisional application shall be determined by the date of the filing by the same applicant with the expert agency of the initial application, disclosing the said industrial property subject matter, and in the presence of the right to get earlier priority under the initial application – for the priority date, given that the divisional application was filed before a final decision refusing the grant under the initial

application has been taken and cannot be further contested, or where a decision to grant has been taken by the expert agency in respect of the initial application, before the date of registration of the industrial property subject matter in the State register of the Republic of Kazakhstan.

6. Priority may be established on the basis of several earlier applications or additional data thereto, in compliance with conditions, provided for respectively in paragraphs 2-5 of the present article.

7. Where it is found that the same priority date is claimed for similar industrial property subject matter, priority shall be established in respect of the application having a proven earlier mailing date, or where the mailing date coincide, of the application having an earlier registration number at the expert agency.

Footnote. Article 20 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 12.01.2012 No. 537-IV (the act is entered into force in ten calendar days after its first official publication).

Article 21. Correction of the application on the applicant's initiative

1. An applicant shall have the right to make amendments or clarifications in the application documents without changing the essence of the claimed industrial property subject matter, as well as changes concerning the marking of the applicant when transfer a right for grant of title of protection title, by filing a petition in the expert organization prior to the decision to that effect.

The applicant shall not be charged a fee for making the said changes within two months from the date of receipt of the application.

2. Change of applicant, in case of change of his name, as well as correction of technical errors in the application documents, may be done prior to the date of registration of industrial property subject matter in the State register given that the necessary payment has been made.

Footnote. Article 21 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication).

Article 22. Examination of invention applications

1. Upon receipt of application the expert agency shall verify the presence of the required documents provided for in subparagraphs 1), 2) and 4) of the first part of paragraph 2 of article 17 of this Law, and the compliance with the prescribed conditions thereto and shall determine the filing date of the application. If the application does not meet the requirements provided for in subparagraphs 1), 2) and 4) of the first part of paragraph 2 of article 17 of this Law, and the conditions prescribed thereto, the expert agency shall notify the applicant of the

said fact and shall suggest that the missing and (or) corrected documents (data) be submitted within three months from the date of sending such notification. If the applicant fails to provide requested and (or) corrected documents(data) within the prescribed time limit the application shall be deemed to have not been filed, of which the applicant shall be notified thereafter.

1.1. After determining the filing date of the application for the grant of an invention patent the expert agency shall carry out a formal examination.

During the formal examination it shall be verified whether the documents provided for in paragraph 2 of article 17 of this Law have been submitted and whether the prescribed conditions have been complied with.

2. Where the applicant files additional elements relating to the application under article 21 of this Law during the examination it shall be ascertained whether they modify the subject matter of the claimed invention.

The additional elements shall be deemed to modify the subject matter of the claimed invention if they contain characteristics to be included in the claims and that did not figure in the initial application. The additional elements that modify the subject matter of the claimed invention shall not be taken into consideration for the purposes of the examination, and may be submitted by the applicant as a separate application, of which possibility the applicant shall be notified.

3. Where the documents contained in the application do not comply with the prescribed requirements, the applicant shall be invited to furnish the corrected or missing documents within three months from the date of receipt of the invitation.

If the applicant fails, within the prescribed time limit, to comply with the invitation or to file a request for extension of the said time limit, the application shall be deemed to have been revoked.

4. If the application does not comply with the unity of invention requirement, the applicant shall be invited to state, within three months following the date of notification of non-compliance with the requirement, which of the solutions should be examined and to correct, if necessary, the elements of the initial application accordingly. Other solutions contained in the initial application may be submitted as divisional applications. Priority of the divisional applications shall be determined in accordance with paragraph 5 of article 20 of this Law.

If the applicant fails, within three months following the date of receipt of the notification, to state which of the solutions should be examined and to furnish the corrected or missing documents, the examination shall be carried out only in respect of the solution that is mentioned first in the claims, as well as solutions so linked to the first solution as to satisfy the unity of invention requirement.

5. The applicant shall be notified of the results of the formal examination after its completion.

6. (excluded - of 2 March, 2007 No. 237).

7. Upon completion of the formal examination with the favorable results the expert agency shall conduct the substantive examination.

The substantive examination shall comprise the determination of whether the claimed solution may relate to industrial property subject matter for which legal protection is granted, the state-of-art search in respect of the claimed invention, and verification of whether the claimed subject matter meets the unity of invention requirement and the criteria of patentability, provided for in article 6 of this Law, and shall be carried out upon payment of the substantive examination fee.

The substantive examination shall be conducted under condition that the expert agency receives proof of payment of the prescribed fee for the substantive examination within three months from the date of sending the notification of the results of the formal examination.

An examination that has not been paid shall be deemed revoked.

8. During the substantive examination the expert agency shall be entitled to request from the applicant to submit additional elements, including amended claims, where such elements are indispensable for the purposes of the examination.

The additional elements requested by the expert agency shall, without modifying the subject matter of the invention, be furnished within three months from the date of sending the request or copies of the elements opposing the application, under condition that the said copies were requested by the applicant during two months from the date when the expert agency sent the request.

Where the additional elements modify the subject matter of the invention, the provisions of paragraph 2 of this article shall apply. In the event that the applicant fails, within the prescribed time limit, to furnish the requested elements or to file a request for extension of the said time limit, the application shall be deemed to have been revoked.

9. If, as a result of the substantive examination of the application, the expert organization determines that the stated proposal in the scope of legal protection requested by the applicant meets the conditions of patentability of the invention defined by Article 6 of this Law, then a decision shall be made on issue a patent for the invention.

Within three months from the date of notification of the applicant by the expert organization of the decision on issuance the patent, applicant submits to an expert organization document confirming payment for the appropriate preparation to issue of a patent and publication. In case of failure to submit the mentioned documents, payment time can be restored within three months, subject to the submission of a document about payment recovery of a missed period. Otherwise, the application shall be deemed revoked, the processing of the application shall be stopped, as the applicant shall be notified within one month from the date of expiry of the period of recovery.

10. When establishing the discrepancy of the claimed invention in the scope of legal protection requested by the applicant to the conditions of patentability of the invention, a decision shall be made on refusal of issue a patent for an invention.

The decision on refusal of issue a patent shall be made in the following cases:

- 1) where the application relates to the solution for which no legal protection is granted;
- 2) where the applicant fails to modify the subject matter of the claimed invention after receipt of the notification to the effect that the proposed amended claims contain characteristics that did not figure in the initial application or, in addition to the solution for which legal protection is granted, contain a solution for which no legal protection is granted, or which has not been examined because of its failure to satisfy the unity of invention requirement.

The applicant may submit an objection to the authorized agency to the decision on refusal of issue a patent to an expert organization within three months from the date of its sending. The objection must be considered by the Appeals Board within four months from the date of its receipt.

11. The applicant, at any time during the substantive examination, before the expert agency takes an opinion, may file an application to be granted an patent for utility model. In this case, the examination shall be carried out in accordance with article 23 of this Law.

12. The applicant shall have the right to acquaint himself with all materials cited by the examiner. The expert agency shall furnish copies of the cited documents requested by the applicant within one month from the date of receipt of the request.

13. If the applicant fails to respect the time limits provided for in paragraphs 3), 4), 7), 8) and 10) of this article, the expert agency may restore the time provided that the applicant submit a document containing proof of payment of the prescribed fee.

The request for restoration of the time may be filed by the applicant no later than 12 months after the expiration of time limit in question. The applicant shall file the said request with the expert agency simultaneously as he submits the documents requested by the examiner, payment documents or lodges an appeal with the board of appeal.

The timing of the response to the request or submission of additional materials provided by paragraphs 3 and 8 of this article may be extended at the request of the applicant, submitted prior to the deadline, for a term not exceeding six months from the date of expiration of the prescribed period subject to payment, and filing of objection in accordance with paragraph 10 of this article, for a period not exceeding three months from the date of the deadline.

13-1. At the request of the applicant, the examination of an application for an invention patent is held in an accelerated form, if the claimed invention refers to objects that have favourable conditions of patentability.

Accelerated examination includes the holding within six months, subject to compliance by the applicant of the requirements referred to in paragraphs 1, 1-1, 2, 3, 4, 5, 7 and 8 of this article:

- 1) formal examination;
- 2) information search;
- 3) substantive examination.

The list of objects that have favourable conditions of patenting, is determined by the authorized body.

14. In the event that while the examination the application is found to contain information that constitutes state secret, the said application shall be declared secret according to the procedure provided for by the legislation of the Republic of Kazakhstan on state secrets.

Footnote. Article 22 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 22-1. Examination of an application for the grant of an innovation patent on an invention

Footnote. Article 22-1 excluded by the Law of the RK of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication).

Article 23. Examination of utility model applications

1. Upon receipt of the application the expert agency shall verify the presence of the documents required under subparagraphs 1), 2) and 4) of the first part of paragraph 2 of article 18 of this Law, and shall determine the filing date. If the application does not meet the requirements provided for in subparagraphs 1), 2) and 4) of the first part of paragraph 2 of article 18 of this Law, the expert agency shall notify the applicant of the said fact and shall suggest that the missing documents (data) be submitted within three months from the date of sending such notification. When applicant fail to submit the requested documents (data) within the prescribed period, the application shall be considered not to have been filed, as the applicant is sent a notification.

During the examination the expert agency shall verify the presence of the documents provided for in paragraph 2 of article 18 of this Law, as well as the compliance with the prescribed conditions thereto, and determine the priority date of the utility model, shall examine whether the claimed solution relates to the objects eligible for legal protection as a utility model, as well as shall verify the unity of utility model requirement.

No verification of the compliance of the claimed utility model with the conditions of patentability of utility models provided for in paragraph 1 of article 7 of this Law shall be carried out. A patent is granted on the risk and responsibility of the applicant.

2. The conduct of the examination of a utility model application shall be governed by the provisions of paragraphs 2), 3), 4) and 13) of article 22 of this Law.

If, as a result of the examination, it shall be established that the application relates to objects protected as utility models, and the documents meet the established requirements, the expert organization shall decide to issue a patent for the utility model.

Within three months from the date of sending the notification to the applicant of the decision on issue the patent by the expert organization, the applicant shall submit a document to the expert organization confirming the appropriate payment for the preparation for issue the patent and publication. If the specified document shall not be submitted, the payment period may be restored within three months, provided that the document on payment for restoration of the missed deadline shall be submitted. Otherwise, the application shall be considered to be withdrawn, the filing of the application shall be terminated, and the applicant shall be notified within one month from the date of the expiration of the recovery period.

3. If, as a result of the examination, it shall be established that the application relates to objects not protected as utility models, a decision on refusal of issue a patent for a utility model shall be made. The decision on refusal of issue a patent shall also be made if the applicant shall not change the formula of the utility model after notifying him that the proposed formula contains signs that were not present in the original application materials, or, in addition to the object protected as the utility model, it also describes a proposal that shall not apply to objects protected as a utility model, or in respect of which the review was not conducted due to violation of the requirement of unity of the utility model.

The applicant shall have the right to file an objection with the authorized agency to the decision on refusal of issue a patent to an expert organization within three months from the date of its sending. The objection must be considered by the Appeals Board within two months from the date of its receipt.

4. In order to assess the patentability of the claimed utility model, the applicant, the patent owner or any third party at any time during the examination procedure, or after the particulars of the grant of a patent have been published, may request that a state-of-the-art search be carried out in respect of the application filed. In that case the provisions of paragraph 11 of article 22 of this Law shall apply.

Footnote. Article 23 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 24. Examination of industrial design application

1. Upon receipt of application for the grant of an industrial design patent the expert agency shall carry out the formal examination and the substantive examination.

2. While the formal examination it shall be verified whether all the necessary documents, required under subparagraphs 1), 2) and 4) of paragraph 2 of article 19 of this Law have been furnished as well as the filing date and the priority date shall be determined.

Where the documents contained in the application for the grant of an industrial design patent do not comply with the prescribed requirements, the applicant shall be invited to furnish the corrected or missing documents within three months from the date of receipt of the invitation.

If the applicant fails, within the prescribed time limit, to comply with the invitation or to file a request for extension of the said time limit, the application shall be deemed to have not been filed, of which the applicant shall be notified. This time limit may be extended, provided appropriate payment, but for not more than three months.

Where the additional elements relating to the application are filed in accordance with article 21 of this Law during the examination it shall be ascertained whether they modify the subject matter of the claimed industrial design.

The additional elements shall be deemed to modify the subject matter of the claimed industrial design if they contain characteristics to be included in the claims and that did not figure in the initial application. The additional elements that modify the subject matter of the claimed industrial design shall not be taken into consideration for the purposes of the examination, and may be submitted by the applicant as a separate application, of which possibility the applicant shall be notified.

The applicant shall be notified of the results of the formal examination after its completion.

2-1. On the application filed in violation of the requirement of unity of industrial design, the applicant is invited, within a period of three months from the date of notification to him to announce which industrial design shall be subject to review and, if necessary, to clarify the application documents. Other industrial designs included in the initial application materials can be allocated to divisional applications. The priority of the divided applications will be installed in accordance with paragraph 5 of article 20 of this Law.

If the applicant, within a period of three months from the date of notification to him of the violation of the requirements of unity does not indicate which of industrial designs shall be subject to review and does not provide the specified documents, carried out the review of object the first specified in the description, as well as other industrial designs related to the first so that they meet the requirement of unity of industrial design.

3. Upon completion of the formal examination with the favorable results the expert agency shall conduct the substantive examination.

The substantive examination shall comprise the determination of whether the claimed solution may relate to industrial property subject matter for which the legal protection is granted, the state-of-art search in respect of the claimed industrial design in order to determine the level of artistic-design presentation of the article, and verification of whether the claimed subject matter meets the criteria of patentability set forth in article 8 of this Law, and shall be carried out upon payment of the substantive examination fee.

The document confirming the proof of payment of the prescribed fee for the substantive examination shall be submitted with the expert agency within three months from the date of sending the notification of the results of the formal examination.

4. During the substantive examination of the application, the expert organization shall have the right to request additional materials from the applicant, without which it shall be impossible to conduct the examination.

The additional elements requested by the expert agency shall, without modifying the subject matter of the invention, be furnished within three months from the date of sending the request.

Where the additional elements modify the subject matter of the industrial design, the provisions of paragraph 1 of this article shall apply. In the event that the applicant fails, within the prescribed time limit, to furnish the requested elements or to file a request for extension of the said time limit, the application shall be deemed to have been revoked. This period may be extended, provided appropriate payment, but for not more than three months.

5. If, as a result of the substantive examination of the application, the expert organization determines that the stated proposal in the scope of legal protection requested by the applicant meets the conditions of patentability of the industrial design specified in Article 8 of this Law, a decision on issuing a patent shall be issued with indication of the established priority.

Within three months from the date of sending the patent decision to the applicant, the applicant shall submit a document to the expert organization confirming the appropriate payment for preparing for issue of the patent and publication. If the specified document shall not be submitted, the payment period may be restored within three months, provided that the document on payment for the restoration of the missed period shall be submitted. Otherwise, the application shall be considered to be withdrawn, the filing of the application shall be terminated, and the applicant shall be notified within one month from the date of the expiration of the recovery period.

6. In determining the discrepancy of the declared industrial design in the scope of legal protection requested by the applicant to the conditions of patentability of the industrial design, it shall be decided not to issue a patent for the industrial design.

The decision on refusal of issue a patent shall also be made if the application relates to objects that shall not be protected as industrial designs or for which consideration has not been conducted due to violation of the requirement of unity of the industrial design.

The applicant shall have the right to file an objection with the authorized agency to the decision on refusal of issue a patent to an expert organization within three months from the date of its sending. The objection must be considered by the Appeals Board within two months from the date of its receipt.

7. The applicant shall have the right to acquaint himself with all materials cited by the examiner. The expert agency shall furnish copies of the cited documents requested by the applicant within one month from the date of receipt of the request.

8. If the applicant fails to respect the time limits provided for in paragraphs 2), 3) and 4) of this article, the expert agency may restore time, subject to payment of restored time.

The request for extension of time may be filed by the applicant no later than six months after the expiration of missed time limit. The applicant shall file the said request with the expert agency simultaneously as he submits the documents requested by the examiner or lodges an appeal with the board of appeal.

Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan of 2 March, 2007 No. 237 (the act is entered into force since the day of its official publication); as amended by the laws of the Republic of Kazakhstan of 12.01.2012 No. 537-IV (the act is entered into force in ten calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 25. Registration of the subject of industrial property and issuance of protected document

1. The expert organization shall register with the relevant State Registers of:

- 1) issuance of protected documents, open or compulsory license;
- 2) transfer of the exclusive right to the subject of industrial property;
- 3) granting the right to use the subject of industrial property;
- 4) early termination or invalidation of the issued patent.

The relevant State Registries shall be posted on the Internet resource of the expert organization.

2. Registration information shall be published weekly in the newsletter.

3. The patent shall be issued to the applicant in a single copy, regardless of the number of the claimed authors. The author certificate shall be issued to the applicant for each author of the subject of industrial property specified in the patent application.

Footnote. Article 25 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 26. Publication of particulars of the grant of title of protection

1. The expert agency shall publish in the bulletin the particulars of the grant of an invention patent after expiration of eighteen months, and in the case of utility model patent and an industrial design patent after expiration of twelve months from the filing date of the application. At the request of the applicant the expert agency may publish the particulars of the grant before the expiration of the said time limit.

2. (excluded - of 2 March, 2007 No. 237);

3. The author shall be entitled to waive the right to be cited as such in the published particulars of the title of protection.

4. The authorized body shall determine the full list of the published particulars.

5. After the publication of information about the grant of title of protection any person shall have the right to familiarize himself with the documents of the application and search report prepared by the expert agency.

6. The expert agency shall publish in the bulletin information on any extension of the term of a title of protection in accordance with paragraph 3 of article 5 of this Law, as well as information on change of records in the corresponding state registers.

Footnote. Article 26 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 02.03.2007 No. 237 (the act is entered into force since the day of its official publication); of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication); of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication).

Article 27. Withdrawal of applications

The applicant may withdraw his application prior to registration of the industrial property subject matter in the appropriate State register of the Republic of Kazakhstan.

Article 28. Conversion of applications

1. The applicant may, prior to an opinion on the invention application by the expert agency, convert the said application into a utility model application by filing a request to that effect.

2. Conversion of an application for a utility model in an application for an invention may, before issuing the decision of expert organization on an application for a utility model by submitting a petition.

3. During such conversions retained the priority and the date of filing of the first application.

Footnote. Article 28 as amended by the Law of the Republic of Kazakhstan of 9 July, 2004 No. 586.

Chapter 6. Termination and renewal of title of protection.

Article 29. Opposition of the title of protection.

1. A title of protection at any time during its period of validity may be, on the basis of the notice of opposition, contested and annulled either entirely or in part in the following cases:

1) the protected industrial property subject matter does not comply with the conditions of patentability provided for by this Law;

2) the claims of the protected invention or utility model or the sum of essential features of the industrial design include elements that did not figure in the application when filed;

3) the grant of the title of protection was effected contrary to the provisions of Article 37 of this Law;

4) the author (or authors) or the patent owner is indicated incorrectly in the title of protection.

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

Footnote. Article 29 as amended by the Law of the Republic of Kazakhstan of 9 July, 2004 No. 586; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 30. Recognition of a title of protection and (or) a Eurasian patent as invalid and early termination of their validity

Footnote. Heading - as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

1. A title of protection and (or) a Eurasian patent shall be invalidated in whole or in part based on a court decision.

If the patent holder makes changes to the claims, description, drawings or image in the title of protection and (or) the Eurasian patent, which will ensure the patentability of the invention, utility model or industrial design, the title of protection and (or) the Eurasian patent shall be partially invalidated. The title of protection and (or) the Eurasian patent, which have been amended, continue to be valid under the same numbers.

Licensing contracts concluded on the basis of a patent subsequently recognized invalid, save the action, in so far as they were performed at the time of the judgement on invalidity of the patent.

Invalidation means cancellation of the decision of the authorized body for the grant of a patent for invention, utility model or industrial design and the cancellation of an entry in the appropriate state register.

The invalidation of a patent means reversal of a decision on issue a patent for an invention, utility model or industrial design and cancellation of an entry in the relevant State Register.

2. The validity of a title of protection shall be subject to early termination in the following cases:

1) at the request of the patent owner filed with the authorized body as from the date of publication in the bulletin of the particulars of the early expiration. Where the title of protection has been granted for a group of industrial property subject matter, while the applicant filed the application only in respect of part of the industrial property subject matter, the title of protection shall be invalidated only in respect of that industrial property subject matter cited in the application;

2) in the case of failure to pay in due time maintenance fee from the date of expiry of the prescribed term for the payment.

3. The expert agency shall publish in the bulletin information concerning titles of protection invalidated, either in full or in part, as well as information concerning early termination of their validity.

Footnote. Article 30 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No. 586; of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 31. Restoration of patent validity. Right of post-grant user

1. At the request of the patent owner the validity of the patent that has been terminated early on the grounds specified in subparagraph 2 of paragraph 2 of article 30 of this Law may be yet restored, within three years following the expiration of the time limit for payment the maintenance fee. The request for restoration shall be accompanied by proof of payment for the preparation of the documents for the restoration of a patent and the maintenance in force during the validity period, payment of which was missed.

The expert agency shall publish in the bulletin information on restoration of validity of the patent. The date of restoration of the patent validity shall be the date of publication of the said information.

2. Any person, who, during the period between the date of early termination of the patent validity and the date of restoration thereof was using in the territory of the Republic of Kazakhstan the patented industrial property subject matter, or was making necessary preparations for such use, shall have the right to proceed with that use free of charge, provided that the scope thereof is not extended (right of post-grant use).

The right of post-grant use may only be transferred to another person together with the enterprise in which the use or the necessary preparations for use have been made.

Footnote. Article 31 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 No.586; of 07.04.2015 No. 300-V (the act is entered into force in ten calendar days after its first official publication).

Chapter 7. Protection of rights of authors, applicants, and patent owners

Article 32. Board of Appeal

1. The Board of Appeal shall be a collegial authority within an authorized agency for the pre-trial consideration of the objections of the applicants.

2. The Board of Appeal may file objections to the decisions of the expert organization on refusal of issue a patent for the subject of industrial property.

Pre-trial consideration of these objections shall be compulsory.

3. The Board of Appeal must include an odd number (at least five) members, including representatives of the authorized bodies in the field of protection of inventions, utility models and industrial designs, in the field of science, state support for innovation activity, healthcare, as well as public councils from the mentioned authorized bodies.

4. The Board of Appeal shall not include:

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

5. Replacing any member of the Board of Appeals may be possible in the event of:

- 1) self-withdrawal or challenge, declared by the participants of the meeting of the Board of Appeal, on the basis of Paragraph 4 of this Article;
- 2) absence due to temporary incapacity to labour, being on vacation or on a business trip.

6. Each meeting of the Board of Appeal shall be held with the use of video recording in the manner determined by the authorized agency.

Footnote. Article 32 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 25.06.2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 32-1. Grounds for refusal to consider the notice of opposition in the board of appeal

1. The consideration of the notice of opposition shall be refused, if:

- 1) the notice of opposition is not the subject to consideration by the Board of appeal in accordance with the legislation of the Republic of Kazakhstan;
- 2) the notice of opposition is not signed or signed by a person who has not authorized to do so;

3) the prescribed time limits has not been complied with and the right to that effect for the extension or restore has been forfeited;

4) the applicant fails, within the prescribed time limits, to rectify the deficiencies relating to the requirements of filing the notice of opposition as for the design, content and the procedure.

At the presence of these circumstances the contestant shall be sent a notification that the notice of opposition cannot be taken into consideration and shall be deemed to have not been filed.

The contestant or his representative may withdraw the notice of opposition, before the collegium of experts of the Board of appeal takes a decision.

Footnote. Chapter 7 was completed with article 32-1 according to the Law of the RK of 12.01.2012 No. 537-IV (the act is entered into force in 10 calendar days after its first official publication).

Article 32-2. Consideration of objection

1. Consideration of the objection shall be carried out by the Board of Appeal in the manner determined by the authorized agency, and at the times provided by this Law.

2. Upon omission of the time limit for filing an objection, the Board of Appeal may accept it for consideration if the reasons for omission of the time limit shall be recognized as valid on the basis of the submitted documents.

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

4. The Board of Appeal shall has the right to postpone the date of the meeting in the event of:

1) absence of the applicant objection, except in the case of the filing of a petition for consideration of the objection without his participation;

2) petition of the applicant about the need for time to submit additional evidence;

3) the need for additional study of the applicant's arguments and (or) circumstances related to the objection.

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

1) on satisfaction of the objection;

2) on partial satisfaction of the objection;

3) on refusal in consideration of the objection;

4) on refusal in satisfaction of the objection.

The Board of Appeal shall not have the right, on its own initiative, to change the subject or basis of the objection.

6. All members of the Board of Appeal, when considering objections shall enjoy equal rights. The decision of the Board of Appeal shall be made by a majority vote of the total number of its members.

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

8. The Board of Appeal may leave the objection without consideration at the request of the applicant objections. The decision to leave the objection without consideration shall be recorded in the minutes of the meeting of the Board of Appeal.

9. The adopted decision may be appealed in court.

Footnote. Chapter 7 is supplemented by Article 32-2 in accordance with the Law of the Republic of Kazakhstan dated 12.01.2012 No. 537-IV (shall be enforced upon expiry of 10 calendar days after its first official publication); is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 32-3. Correction of clerical errors and obvious technical errors in the decision of the Board of Appeal

1. After the announcement of decision on the objection, the Board of Appeal, made the decision shall have no right to cancel or change it.

2. The Board of Appeal may, on its own initiative or the application of persons participating in the consideration of the objections correct the mistakes made in the decision or obvious technical errors.

The matter of corrections shall be resolved at a meeting of the Board of Appeal. The persons participating in the consideration of the objections shall be informed of the time and place of the meeting of the Board of Appeal, but their absence shall not constitute an obstacle to the consideration of the matter of making corrections.

3. The making of corrections to the decision of the Board of Appeal shall be drawn up by an additional decision of the Board of Appeal.

Footnote. Chapter 7 is supplemented by Article 32-3 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 32-4. Leaving the objection without consideration

1. The Board of Appeal shall leave the objection without consideration if:

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

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

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

Footnote. Chapter 7 is supplemented by Article 32-4 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 33. Settlement of disputes in court proceedings

1. The competence of the court shall extend to disputes over:

- 1) the authorship of an industrial property subject matter;
- 2) the legality of the grant of a title of protection;
- 2-1) on the recognition of a title of protection and (or) a Eurasian patent as invalid;
- 3) the identification of the patent owner;
- 4) the grant of a compulsory license;
- 5) infringement of the exclusive right to use the industrial property subject matter and of other economic rights of the patent owner;
- 6) the conclusion and execution of license contracts of the protected industrial property subject matter;
- 7) the right over the prior use and post-grant use;
- 8) the remuneration to be paid to the author by the employer under paragraph 4 of article 10 of this Law;
- 9) the payment of compensation provided for in this Law;
- 10) other disputes arising out of the protection of rights certified by the title of protection;

The specified disputes, except for those specified in Subparagraphs 1), 2), 3), 4), 7) and 10) of part one of this Paragraph, may be considered by agreement of the parties in the order of arbitration or mediation, if it shall not be prohibited by the Laws of the Republic of Kazakhstan “On arbitration” and “On mediation”.

1-1. Claims for decisions of an expert organization specified in Paragraph 2 of Article 32 of this Law shall be submitted to the court after consideration of the relevant objections in the Board of Appeal.

2. The expert agency shall, on the basis of a court decision, publish information on changes relating to the title of protection.

Footnote. Article 33 as amended by the laws of the Republic of Kazakhstan of 09.07.2004 № 586; of 31.10.2015 No. 378-V (the act is entered into force since 01.01.2016) ; dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.01.2019 № 217-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 34. Liability for infringement of the rights of authors, applicants and patent owners

The usurpation of authorship, acquisition of the status of author by coercion, disclosure of information on the industrial property subject matter without the author's or the applicant's consent prior to the publication of its particulars, unlawful use of the protected title of protection, violation of the process of patenting the industrial property subject matter in foreign countries shall entail liability in accordance with the laws of the Republic of Kazakhstan.

Footnote. Article 34 as amended by the laws of the Republic of Kazakhstan of 10.07.2009 No. 179-IV (order of enforcement see Article 2 of the Law).

Article 34-1. Unregistered industrial design

1. An industrial design that meets the requirements of novelty and originality may be protected without registration and issuance of a title of protection for three years from the date when the industrial design was first made public (disclosed) in the Republic of Kazakhstan.

An unregistered industrial design shall be considered new if no identical industrial design was made public (disclosed) before the date when the unregistered industrial design was first made public (disclosed).

The originality of an unregistered industrial design must comply with the requirements of paragraph 1 of Article 8 of this Law.

Protection of the right to an unregistered industrial design shall be carried out in court.

2. An unregistered industrial design shall be considered to be published (disclosed) for the first time if it was published, exhibited at an exhibition, used in the trade or correctly communicated to circles specializing in this sector of business activity, operating in the Republic of Kazakhstan.

An unregistered industrial design that is disclosed only to a third party on the terms of a specified or implied confidentiality shall not be considered to be made public.

3. The right of authorship of an unregistered industrial design shall be determined on the grounds specified in paragraphs 1, 2 and 3 of Article 9 of this Law.

4. The right to an unregistered industrial design shall belong to:

- 1) the author (authors) of an object of industrial property;
- 2) to the employer unless otherwise provided in the contract between him/her and the employee;
- 3) to the successor (successors), including the person (persons) who received (obtained) the relevant right by way of assignment;
- 4) jointly with the persons provided for in this paragraph, subject to agreement between them.

5. The owner of an unregistered industrial design has the right to prevent the actions of use specified in paragraph 2 of Article 11 of this Law only if the disputed use is the result of copying his unregistered industrial design.

The disputed use shall not be considered to be a copy of an unregistered industrial design if it resulted from the independent work of creating another industrial design of the author, who can reasonably be considered to be a person who did not know about the published industrial design.

Footnote. Chapter 7 is supplemented by Article 34-1 in accordance with the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Chapter 8. Final provisions

Article 35. State fee

The performance by the authorized agency of the actions on attestation of patent attorneys and registration as patent attorneys a state fee shall be levied in accordance with the Code of the Republic of Kazakhstan "On taxes and other compulsory payments to the budget" (Tax Code).

Footnote. Article 35 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 36. Patent attorneys

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

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

The attestation commission, created under the authorized body, shall consist of an odd number of employees of the authorized body.

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

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

2. The following persons shall not be allowed to be certified:

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

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

3) having an outstanding or unexpunged conviction for committing a crime in accordance with the procedure established by law;

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

3. Persons who have experience in the field of protection and defence of intellectual property rights for at least four years or who have completed an internship in the Chamber of Patent Attorneys for at least one year are eligible for attestation.

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

1) based on an application of a patent attorney submitted to the attestation commission;

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

3) to clarify the circumstances provided for in paragraph 1 of Article 36-2 of this Law.

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

The activities of a patent attorney are resumed by a protocol decision of the attestation commission if the grounds that served to suspend his activities are eliminated.

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

Individuals residing outside the Republic of Kazakhstan or foreign legal entities shall exercise their rights as an applicant, and patent holder, as well as the rights of an interested person in the authorized body and its organizations through patent attorneys.

Individuals permanently residing in the Republic of Kazakhstan, but temporarily staying outside it, may exercise their rights as an applicant, and patent owner, as well as the rights of an interested person without a patent attorney, when indicating an address for correspondence within the Republic of Kazakhstan.

Information that a patent attorney receives from a principal in connection with the execution of his/her instructions shall be recognized as confidential subject to the requirements imposed by the laws of the Republic of Kazakhstan on confidential information or other secrets protected by law.

Footnote. Article 36 - as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 36-1. Rights and obligations of a patent attorney

1. A patent attorney shall have the right:

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

2) carry out work on the execution and preparation of applications for inventions, utility models and industrial designs in the name of and on behalf of the customer, principal, and employer;

3) interact with the authorized body and (or) expert organization on the protection of rights to inventions, utility models and industrial designs, including correspondence, prepare and send objections to the examination decisions;

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

5) be a member of the Chamber of Patent Attorneys;

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

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

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

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

4. A patent attorney shall be obliged not to accept an assignment in cases where he has previously represented or advised persons in this case whose interests are contrary to the interests of the person who applied to conduct the case, or otherwise participated in its consideration, as well as if an official participates in the consideration of the case, who is a close relative of a patent attorney, spouse or in-law.

Footnote. Chapter 8 was completed with article 36-1 according to the Law of the RK of 12.01.2012 No. 537-IV (the act is entered into force in ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 36-2. Exclusion from the register of patent attorneys, invalidation of the certificate of a patent attorney and cancellation of information in the register of patent attorneys

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

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

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

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

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

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

6) in case of recognition of a patent attorney as incapable or partially incapacitated;

7) based on the results of consideration of complaints of individuals and (or) legal entities, as well as the presentation of the Chamber of Patent Attorneys.

2. Based on the decision of the attestation commission or a decision that has entered into legal force or a judgment of conviction of the court, the certificate of a patent attorney shall be recognized as invalid and the relevant information shall be entered into the register of patent attorneys.

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

4. In the event of a complaint from an individual and (or) legal entity or a presentation by the Chamber of Patent Attorneys against the actions of a patent attorney, the authorized body shall form an appeal commission from an odd number of employees of the authorized body. For the period of consideration of the complaint of an individual and (or) legal entity or presentation of the Chamber of Patent Attorneys, the validity of the certificate of a patent attorney shall be suspended, which shall be noted in the register of patent attorneys.

Based on the results of consideration of the complaint of an individual and (or) legal entity or the presentation of the Chamber of Patent Attorneys, one of the following decisions shall be made:

1) revoke the certificate of a patent attorney and make an appropriate entry in the register of patent attorneys;

2) refuse to satisfy the complaint of an individual and (or) legal entity or the presentation of the Chamber of Patent Attorneys.

The decision of the appeal committee shall be taken by a simple majority of votes, drawn up in a protocol and may be appealed to the court.

Footnote. Chapter 8 was completed with article 36-2 according to the Law of the RK of 12.01.2012 № 537-IV (the act is entered into force in ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 20.06.2022 No. 128-VII (shall come into effect upon the expiration of sixty calendar days after the day of its first official publication).

Article 37. International registration of the subject of industrial property

International registration of the subject of industrial property shall be carried out by submitting an application to an expert organization.

The rules for consideration of applications shall be approved by the authorized agency in accordance with international treaties ratified by the Republic of Kazakhstan.

Footnote. Article 37 is in the wording of the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 38. Rights of foreign individuals, legal entities and stateless persons

1. Foreign individuals and legal entities shall, on the basis of international treaties to which the Republic of Kazakhstan is party or on the principle of reciprocity, enjoy the same rights provided for in this Law for its individuals and legal entities.

2. Stateless persons residing in the Republic of Kazakhstan shall enjoy the rights provided by this Law and other Acts relating to the legal protection of the subject of industrial property, on an equal basis with individuals and legal entities of the Republic of Kazakhstan, unless otherwise provided by this Law.

Footnote. Article 38 as amended by the Law of the Republic of Kazakhstan dated 20.06.2018 № 161-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

The President
of the Republic of Kazakhstan