
**Council for Trade-Related Aspects
of Intellectual Property**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND
REGULATIONS NOTIFIED UNDER ARTICLE 63.2
OF THE AGREEMENT**

KYRGYZ REPUBLIC

The present document reproduces the text¹ of the Law on Trademarks, Service Marks and Appellations of Places of Origin of Goods, of 14 January 1998, as notified by the Kyrgyz Republic under Article 63.2 of the Agreement (see document IP/N/1/KGZ/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

RÉPUBLIQUE KIRGHIZE

Le présent document contient le texte¹ de la Loi du 14 janvier 1998 sur les marques de fabrique et de commerce, les marques de service et les appellations d'origine, notifiée par la République kirghize au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/KGZ/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD
INTELLECTUAL NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2
DEL ARTÍCULO 63 DEL ACUERDO**

REPÚBLICA KIRGUISA

En el presente documento se reproduce el texto¹ de la Ley sobre las marcas de fábrica o de comercio, las marcas de servicios y las denominaciones de origen, de 14 de enero de 1998, que la República Kirguisa ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/KGZ/1).

¹ In English only./En anglais seulement./En inglés solamente.

Bishkek

January 14, 1998 # 7

**The Law of the Kyrgyz Republic
"On Trademarks, Service Marks and Appellations of Places of Origin of Goods"**

Section I. General Provisions

Section II. Trademark and service mark

Section III. Registration of a trademark

Section IV. Collective mark

Section V. Use of a trademark

Section VI. Transfer of a trademark

Section VII. Termination of a legal protection

Section VIII. Appellation of a place of origin

Section IX. Registration and granting of the right to use appellation of origin

Section X. The use of the appellation of origin

Section XI. Termination of a legal protection of the appellation of the place of origin

Section XII. Final provisions

The present Law shall regulate legal, economic and organizational relationships arising in the Kyrgyz Republic in connection with the registration, legal protection and the use of trademarks, service marks and appellations of places of origin of goods.

Section I. GENERAL PROVISIONS

Article 1. The State Intellectual Property Agency under the Government of the Kyrgyz Republic

The State Intellectual Property Agency under the Government of the Kyrgyz Republic (hereinafter - Kyrgyzpatent) shall, in compliance with this Law, conduct the common state policy in the field of protection of trademarks, service marks and of appellations of places of origin of goods in the Kyrgyz Republic, accept for examination applications for registration of trademarks and service marks, as well as applications for registration and obtaining the right to use appellation of place of origin of goods, conduct examination procedure, provide their State registration, issue certificates, publish official data, issue rules and clarifications on the use of this Law and perform other functions related to trademarks, service marks and appellations of places of origin of goods pursuant to Regulation on that approved by the Government of the Kyrgyz Republic.

In order to improve the activity of Kyrgyzpatent in the field of providing legal protection of trademarks, service marks and appellations of places of origin of goods, Appeal Council is being established under Kyrgyzpatent which is the initial obligated body to review disputes arising on aforementioned objects due to its competence. Appeal Council shall scrutinize appeals pursuant to the order established by Kyrgyzpatent.

The sources of funding the activities of Kyrgyzpatent shall be means of republican budget, patent fees as well as payment for services and materials provided by Kyrgyzpatent and other non-budget sources.

Section II. TRADEMARK AND SERVICE MARK

Article 2. Trademark and Service Mark

A trademark and service mark (hereinafter referred to as trademark) shall be designations that can distinguish goods and services of some legal entities or natural persons from the similar goods or services (hereinafter referred to as goods) of the other legal entities or natural persons.

A certificate of registration shall be issued for a registered trademark. A certificate shall certify the priority of a trademark, exclusive right of the owner of a trademark with respect to the goods specified in the certificate.

A trademark may be expressed in the form of:

- 1) words and word combinations;
- 2) depiction, figures and symbols;
- 3) letters, numbers and their combinations;
- 4) three-dimensional forms;
- 5) combination of the all enumerated forms;
- 6) or any other visual designations or a combination of these designations.

A trademark may be registered in any color or combination of colors.

The nature of goods to which a trademark is applied, should not be an obstacle for registration of a trademark .

The present Law shall not be applicable to holographic marks except visually different holographic marks and marks that are not comprised of visual designation, to sound and olfactory marks in particular.

Article 3. Legal Protection of a Trademark. Exclusive Right to a Trademark

Legal protection of a trademark in the Kyrgyz Republic shall be granted on the basis of the State registration thereof in the order established by this Law or by virtue of international agreements of the Kyrgyz Republic.

A trademark may be registered on the name of a legal entity as well as natural person conducting entrepreneurship activity.

The owner of a trademark shall have the exclusive right to use or dispose a trademark, as well as prohibit its exploitation by other persons. No person shall have the right to use a trademark in the Kyrgyz Republic without the permission of its owner.

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

Article 4. Absolute Grounds for Refusal in Registration

No registration shall be allowed for the trademarks which consist only of designations:

- 1) that cannot be distinguished;
- 2) represent state coats of arms, banners or emblems;
- 3) official names of countries, emblems, abbreviated or full names of international organizations, official, control, guarantee and assay marks, seals, awards and other marks of distinction or those similar to them to the extent likely to cause confusion. Such designations may be included in a trademark as non-protected elements, if there is a consent of an appropriate competent body or the owner;
- 4) come into general use as designations of goods of a certain kind;
- 5) generally accepted terms and symbols for the goods regarding to which terms and symbols are suggested to be used as marks;
- 6) pointing to the appearance, quality, quantity, properties, purpose, value of products as well as to the place and time of their manufacture or sale.

Designations indicated in subparagraphs 2, 4, 5, 6 of the first paragraph of this Article may be included into a trademark as unprotected elements if they have no dominating position in it.

The following designations shall not be allowed to be registered as trademarks or elements thereof:

- 1) the ones which are false or misleading for the consumer with respect to the good or its manufacturer;
- 2) the ones contradicting public interests, principles of humanity and morals.

Article 5. Other Grounds for Refusal in Registration

The following designations which are identical or similar to the extent likely to cause confusion can not be registered as trademarks:

- 1) trademarks earlier registered or filed for registration in the Kyrgyz Republic on the name of another person with respect to the similar goods which have an earlier priority;
- 2) other persons' trademarks protected without registration by virtue of international agreements of the Kyrgyz Republic;

- 3) trademarks well-known in the territory of the Kyrgyz Republic. The well-known criterion for a trademark are established by the Government of the Kyrgyz Republic.

Shall not be registered as trademarks the following designations which reproduce:

- 1) trade names (or a part thereof) and names of selective achievements, known in the territory of the Kyrgyz Republic and owned by other persons who obtained the right for these names before the receipt of an application for a trademark;
- 2) appellation of places of origin of goods;
- 3) names of works of science, literature and art or fragments thereof known in the Kyrgyz Republic, without consent of the owner copyright or his legal successors;
- 4) names, surnames, pseudonyms and derivatives thereof, portraits and facsimiles of famous persons without the consent of these persons, their heirs, in the event if such designations are the property of history and culture of the Kyrgyz Republic - without permission of the Government of the Kyrgyz Republic;
- 5) industrial designs, rights to which belong to the other persons in the Kyrgyz Republic, if an industrial design has the earliest priority as compared to an application for the registration of a trademark.

Section III. REGISTRATION OF A TRADEMARK

Article 6. Application for the Registration of a Trademark

Application for the registration of a trademark (hereinafter referred to as application) shall be submitted by natural or legal entity, providing an entrepreneurship activity (hereinafter referred to as applicant) to Kyrgyzpatent.

The application may be filed through a patent agent registered at Kyrgyzpatent or other representative.

Foreign legal entitles or physical persons permanently resident outside the bounds of the Kyrgyz Republic, or their patent agents\attorneys, shall carry out procedures related to the registration of a trademarks through the patent agents registered at Kyrgyzpatent.

Authority of a patent agent or other representative shall be proved by a power of attorney provided by a person on whose name the trademark certificate is sought.

Kyrgyzpatent shall determine the order of attestation and registration of patent agents and realize it.

The application must be related to one trademark only.

The application shall include:

- 1) application for the registration of a designation as a trademark with the indication of an applicant and also of his place of residence or place of destination;
- 2) the designation claimed and its description;
- 3) the list of goods and services for which registration of a trademark is being requested, which are broken down according to the classes of the International Classification of Goods and Services for the Registration of Marks .

Application shall be filed in the Kyrgyz or Russian language.

The following documents shall be enclosed with the application:

- 1) the document confirming payment of the fee in the established amount;
- 2) the charter of a collective mark if the application is filed for a collective mark.
- 3) the copy of certificate of the state registration as a legal entity or private entrepreneur or the document of the same power certified in an appropriate way.

The date of submission of an application is considered the date of receipt of the documents by Kyrgyzpatent, as stipulated by part\item seven of the present Article.

The documents attached to the application shall be filed in the Kyrgyz or Russian language.

Kyrgyzpatent shall establish the requirements to the application documents.

Article 7. Priority of a Trademark

The priority of a trademark shall be established on the date of filing of an application with Kyrgyzpatent which meets the requirements of Article 6 of this Law.

The priority of a trademark may be established on the date of filing of the first application in a country-member of the Paris Convention on Protection of Industrial Property (convention priority) if the application has been filed with Kyrgyzpatent within six months from the set date.

The priority of a trademark placed on exhibits at official or officially recognized international exhibitions organized in the territory of one of the country-member of the Paris Convention on Protection of Industrial Property may be established on the date of the open display of the exhibit at the exhibition (exhibit priority), if the application for a trademark has been received by Kyrgyzpatent within six months from the established date.

The applicant wishing to exploit the right to the convention priority or exhibition priority, must indicate this while filing the application for a trademark or within two months from the date of the receipt of the application by Kyrgyzpatent and attach the required documents proving the legality of such a claim, or present these documents not later than three months as of the date of receipt of the application by Kyrgyzpatent.

The priority of a trademark may be established on the date of the international registration of a trademark in compliance with the international agreements of the Kyrgyz Republic.

Article 8. Examination of the Application for a Trademark

Examination of an application shall be conducted by Kyrgyzpatent and shall include preliminary examination and examination of the claimed designation.

Within two months as of the date of filing the application, the applicant shall be entitled, at his own initiative, to add, clarify or correct the materials without additional payment.

In the event if additional materials contain indication for goods which are not included into the application on the date of its submission or significantly change claimed designation, they are not accepted for examination.

The application may be revoked at the request of an applicant at any moment during the examination procedure, but not later than the date of registration of a trademark at the State Register of Trademarks of the Kyrgyz Republic.

Article 9. Preliminary Examination

Preliminary examination of an application shall be conducted after two months as of date of submission of the application to Kyrgyzpatent. During preliminary examination, the composition of the required documents, provided for by Article 6 of this Law, the correctness of the form of documents, payment of the fee shall be examined and the priority shall be established.

The applicant may request in writing for the commencement of the preliminary examination before expiration of the term of two months, from the date of filing the request the applicant shall lose his/her right provided by paragraph 2 of Article 8 of this Law.

In the course of the preliminary examination the request may be sent to an applicant to provide additional necessary materials, the answer must be provided within 2 months. At the request\petition of the applicant and on the basis of reasonable grounds and payment of an appropriate fee, Kyrgyzpatent may allow the extension of this term to six months.

In the event an applicant violated the established term or did not answer the request, the application should be considered revoked.

Based on the results of the preliminary examination, Kyrgyzpatent make a decision whether to accept an application for examination or refuse to register a trademark. Notification on the decision made shall be sent to the applicant.

Article 10. Examination of the Claimed Designation

Examination of the claimed designation shall be conducted after termination of the preliminary examination within the term of 12 months, starting from the date when the application was accepted for consideration, and establishes whether the applied trademark is identical or similar to the trademarks for goods of the same class with an earlier priority, and whether this trademark complies with the requirements of Articles 6 and 7 of this Law.

According to the results of the examination, the decision on registration of the trademark or refusal in registration shall be made.

At any stage of examination Kyrgyzpatent has a right to require an applicant to present additional materials without which it is impossible to conduct examination.

Additional materials on the request of the examination must be presented within two months from the date of receipt the request. At the request of an Applicant and under reasonable grounds and payment of an appropriate fee before expiration term of two months, the term of answering the request may be extended, but not more than for six months.

In the event an applicant violated the established term or left the request of the examination unanswered, the application is considered revoked.

During the examination the preliminary decision to refuse to register the trademark may be made.

The applicant may present an answer for the preliminary decision within two months from the date of the receipt of preliminary decision. Upon the request of an applicant this term may be extended under condition that the request is received before expiration of this term. The term of providing the answer for preliminary decision shall be extended for not more than six months.

In the applicant violated the established term or left the preliminary decision without an answer, the decision to refuse in the registration of the trademark shall be made.

Article 11. Appeal of the Decision on Application and Restoration of the Elapsed Terms

Should the applicant not agree with the decision of the preliminary examination or with the decision of the examination of the claimed designation he has the right within three months from the date of receipt of the decision, file an appeal with the Appellate Council of Kyrgyzpatent (hereinafter referred to as the Appellate Council). The Appellate Council must consider the appeal within four months after the date of receipt of the appeal.

The decision of the Appellate Council may be appeal to court by the applicant within six months as of the date of its receipt.

The applicant shall be entitled to familiarize with the documents indicated in the decision of examination.

The applicant may request copies of such documents during one month after receipt of the decision of examination.

Kyrgyzpatent may restore the terms, provided by paragraph 3 of Article 9, paragraph 4 of Article 10, and paragraphs 1 and 4 of this Article at the applicant's request, filed no later than two months after the expiration, provided that valid reasons and payment of fee have been confirmed.

Article 12. Registration of a Trademark

Kyrgyzpatent shall register trademarks in the State Register of Trademarks of the Kyrgyz Republic (hereinafter referred to as the Register) within one month after the date of receipt of the document attesting the payment of the established fee on the basis of the decision on registration of a trademark.

The fee shall be paid within two months as of the date of receipt of the decision by the applicant on registration of the trademark or within three months as of the date of termination of the established two months term under the condition of payment additional fee

Kyrgyzpatent shall determine the order and the list of information entering the Register.

Article 13. Publication of Information on Registration

The information that relates to the registration of a trademark and is entered in the Register shall be published by Kyrgyzpatent in the Official Bulletin within six months after the date of registration of the trademark in the Register or after the date of entering the changes on

the registration of a trademark in the Register.

Article 14. Issuance of a Certificate for a Trademark

The certificate for a trademark shall be issued by the Kyrgyzpatent after three months from the date of publication of the trademark in the Official Bulletin.

The form of the certificate and composition of the data to be indicated therein shall be determined by Kyrgyzpatent.

Article 15. The Effective Term of a Trademark

The trademark shall be valid for ten years from the date of submission of the application to Kyrgyzpatent.

The effective term may be extended at the applicant's request filed during the last year of its validity, each time for another ten years provided that the fee has been paid. The applicant may be given at his request a six-month term after expiration of the term of registration, provided that a supplementary fee has been paid.

Record of extension of the term of validity of a trademark shall be entered by Kyrgyzpatent to the Register and to the certificate of a trademark.

Article 16. Introduction of Changes to the Registration

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

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

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

Article 17. Registration of a Trademark in the Foreign Countries

Legal entities and natural persons of the Kyrgyz Republic shall be entitled to register a trademark in foreign countries or carry out its international registration.

The application for international registration of a trademark shall be submitted through Kyrgyzpatent.

Section IV. COLLECTIVE MARK

Article 18. Rights to a Collective Mark

Legal entities, representing unions, economic associations, concerns and other unions of legal entities (hereinafter referred to as the associations) may file applications for the collective mark meant for designation of goods produced and released by them, that possess unified qualitative or other common features.

An application for a collective mark shall be accompanied with two copies of the Charter of the collective mark which includes the information on the name, location of the association, the list of legal entities which have the right to use the trademark, the purpose of its registration, the list and common qualitative or other general characteristics of the goods which will be denoted by the collective mark, the terms of its use, the order of monitoring its use and the responsibility for violation of the Charter of a collective mark.

Article 19. Registration of a Collective Mark

The registration of a collective mark shall be carried out in accordance with Article 12 of this Law. In addition to this, the Register and the certificate of a trademark shall be added with the information on legal entities which have the right to use the collective mark, reference to the Charter and its date. These data shall be published in the Official Bulletin of Kyrgyzpatent. The owner of a collective mark shall notify Kyrgyzpatent about the changes in the Charter of the collective mark.

If the collective mark is used on the goods, which do not possess common qualitative or other common characteristics, the validity of its registration may be terminated before the due time in full or in part on the basis of the ruling made by court, accepted on the application from any person.

Section V. USE OF A TRADEMARK

Article 20. Use of a Trademark and Consequences of Failure to Use It

A trademark shall be deemed to be used if it is used on the goods for which the trademark has been registered and/or on their packing by the owner of the trademark, or the person to whom this right was granted by virtue of the licensing agreement in accordance with Article 23 of this Law.

A trademark may be also deemed as being used if it is used in advertisements, printed matters, official forms, signboards, during demonstration of displays at the exhibitions and fairs

1. held in the Kyrgyz Republic, if there are valid reasons for non use of the trademark on the goods and/or on their packing.

Legal entities and natural persons who are engaged in intermediary activities may use their own trademark along with the trademark of the manufacturer of the goods and also instead of the trademark of the latter on the basis of the agreement.

Validity of the registration of a trademark may be terminated in full or in part before the due time on the basis of court decision issued at the request of any person in connection with non use of a trademark during for any three years from the date of registration or during three years preceding the filing of such statement.

Upon the decision of the question on premature termination of the registration of a trademark due to its non use, evidences presented by the owner of a trademark may be taken into consideration to the effect that the trademark was not used due to the circumstances beyond his control, including limits established by the state for the goods for which trademark is registered.

Article 21. Warning Marks

The owner of a trademark may use a warning mark by the side of the trademark to the effect that the used designation is a trademark registered in the Kyrgyz Republic.

Section VI. TRANSFER OF A TRADEMARK

Article 22. Concession of a Trademark

The owner of a trademark may assign it to a legal entity or physical person on the basis of the agreement both with the appropriate manufacture or part of it or without it with respect to all or some of the goods for which it is registered.

Concession of a trademark on the agreement shall not be allowed, if it may cause confusion to the consumer in respect of the product, its quality or its manufacturer.

Collective trademarks cannot be assigned to other persons.

Article 23. Granting of the License for the Use of a Trademark

The right to use a trademark may be granted by the owner of a trademark (licenser) to another person (licensee) on the basis of a licensing agreement, in relation to one, several, or all products, for which the mark was registered.

The licensing agreement shall include a provision on the fact that the quality of the

2. licensee's goods will not be of the worse quality compared to those of the licenser, and that the licenser will exercise control over execution of this provision.

Collective trademarks shall not be subject to the licensing agreement.

Article 24. Registration of the Agreement on Assignment of a Trademark and Licensing Agreement

The agreement on assignment of a trademark and the licensing agreement shall be registered at Kyrgyzpatent and shall become effective as of the date of registration. They shall be considered invalid without such registration.

Kyrgyzpatent shall not register the agreement, if it does not comply with the requirements of Articles 22 and 23 of this Law.

The established fee shall be paid for registration of the agreement.

Section VII. TERMINATION OF LEGAL PROTECTION

Article 25. Invalidation of the Registration of a Trademark

Registration of a trademark may be considered invalid in full or partially during the whole period of its validity if it has been conducted in violation of the requirements established in Articles 3 and 4 of the present Law, or during five years from the date of publication of the information on registration of a trademark in the Official Bulletin based on the grounds established by Article 6 of the Law.

Any person may file an appeal with the Appellate Council against registration of a trademark within the period stated in paragraph 1 of this Article. The appeal against registration of a trademark must be examined during four months from the date of its receipt.

The decision of the Appellate Council may be appeal in court by an applicant within six months as of the date of its receipt.

Article 26. Cancellation of the Registration of a Trademark

Registration of a trademark shall be canceled by Kyrgyzpatent:

- 1) in connection with termination of the term of its validity as provided by Article 15 of this Law;
- 2) on the basis of court decision on premature termination of its validity due to the use of a collective mark on goods not possessing common qualitative or other common

characteristics, according to paragraph 2 of Article 19 of this Law;

- 3) on the basis of the decision of court on premature termination of its validity due to the failure to use the trade mark pursuant to the paragraph 4 of Article 20 of this Law;
- 4) if it has been considered invalid according to the Article 25 of this Law;
- 5) in case of liquidation of a legal entity or termination of entrepreneurship activity of a natural person - the owner of a trademark without any successor;

- 6) on the basis of the court decision in the event of transformation of a trademark into a designation that has come into a general use as designation of goods of a certain kind;
- 7) in the case of refusal by the owner of a trademark.

Section VIII. APPELLATION OF PLACE OF ORIGIN OF GOODS

Article 27. Appellation of Place of Origin of Goods

Appellation of place of origin of goods is the name of the country, settlement, location or other geographic area (hereinafter referred to as geographic object) used to denote a good, special properties of which are exclusively or mainly determined by natural conditions or human factors of that geographical place or by natural conditions and human factors simultaneously.

The appellation of place of origin of goods may be a historical name of a geographic object.

No designation shall be recognized as the appellation of a place of origin of goods, though representing by itself or containing the name of geographic object but come into general use in the Kyrgyz Republic as a designation of goods of a certain kind not related to the place of its manufacture.

Article 28. Arising of Legal Protection

Legal protection of an appellation of place of origin of goods in the Kyrgyz Republic shall arise on the basis of registration according to the order established by the present Law or by virtue of international agreements of the Kyrgyz Republic.

Appellation of place of origin of goods shall be protected by the Law.

Appellation of place of origin of goods may be registered by one or several legal entities or physical persons. The person registered the appellation of place of origin of goods shall obtain the right to use it if the good manufactured by this person meets the requirements set forth in paragraph 1, Article 27 of this Law.

The right to use the same appellation of place of origin of goods registered in the established order may be granted to any legal entity or physical person located in the same geographical place manufacturing the good with the same properties.

The registration of appellation of place of origin of goods shall be valid for unlimited time.

Section IX. REGISTRATION AND GRANTING OF THE RIGHT TO USE APPELLATION OF PLACE OF ORIGIN OF GOODS

Article 29. Application for the Registration and Granting the Right to Use Appellation of Place of Origin of Goods

Applicant(s) shall file an application for registration and for granting the right to use an appellation of place of origin of goods or an application for the right to use already registered appellation of place of origin of goods (hereinafter referred to as an application) with Kyrgyzpatent independently or through a patent agent, registered at Kyrgyzpatent.

The application shall be related to one appellation of place of origin of goods.

The application shall include:

- application for the registration and for granting the right to use appellation of place of origin of goods or granting the right to use already registered appellation of place of origin of goods with the indication of the applicant (applicants) and also his (their) location or residence;
- the designation applied for;
- the kind of a good for designation of which registration and the right to use an appellation of place of origin of goods or the right to use an already registered appellation of place of origin of goods is sought, with the indication of the place of manufacture (bounds of the geographic place);
- description of special properties of the product.

Application shall be filed in Kyrgyz or Russian language.

The following documents shall be attached to the application:

- statement of a competent body to the effect that the applicant is located in the indicated geographic object and manufactures a good special properties of which are determined by natural conditions or human factors natural for that geographic object or by human factors or natural conditions simultaneously;
- for a foreign applicant: a document proving his right to the claimed appellation of place of origin in the country of origin of goods;
- a document certifying payment of fee in the established amount.

The documents enclosed to the application shall be filed in Kyrgyz or Russian language.

If the documents have been submitted in the other language, the application shall include translation into Kyrgyz or Russian language.

Requirements to the documents of the application shall be established by Kyrgyzpatent.

Article 30. Examination of the Application

Kyrgyzpatent shall carry out examination of the application, including preliminary examination and examination of the claimed designation.

The applicant shall be entitled to introduce additions, clarifications, and amendments into application that do not change the substance of an application within two months as of the date of file of the application without additional payment. If additional materials change the substance of the application, these materials shall not be accepted for examination and may be filed by the applicant as an independent application.

During the examination Kyrgyzpatent shall have the right to request the Applicant to file additional documents without which examination procedure is not possible.

The required materials must be submitted within two months as of the date of receipt of the request. At the applicant's written request, due to valid reasons and payment of established fee, Kyrgyzpatent may allow the extension of this term for six months. If the applicant breaks the indicated term or leaves the request of the examination without reply, the application shall be deemed withdrawn.

After expiration of two months as of filing of an application with Kyrgyzpatent, a preliminary expertise of an application shall be conducted. In the course of preliminary examination, the composition of the necessary documents, correctness of the form, payment of the fee stipulated by Article 29 of this Law, shall be examined.

The Applicant may request in writing the commencement of preliminary examination before expiration of two months as of the date of filing the request the applicant shall lose the right provided by paragraph 2 of this Article.

On the results of the preliminary examination the applicant shall be notified that the application is accepted for examination or that the application is denied.

Once the application is accepted for consideration, an examination of the claimed designation shall be conducted within 12 months as of the date of receipt of the application for examination for compliance with the requirements, established by Article 27 of this Law.

Kyrgyzpatent shall make a decision on the registration of appellation of place of origin of goods and granting the right to use it by him, or refusal in registration of appellation of place of

origin of goods based upon the results of examination.

The applicant may withdraw the application at any stage of its consideration.

Article 31. The Appeal against the Decision on Application and Reinstatement of the Elapsed Terms

Should the applicant not agree with the decision of preliminary examination or the decision of the examination of the claimed designation, he has the right to file an objection with the Appellate Council within three months from the date of receipt of the decision. The objection must be examined by the Appellate Council during four months from the date of receipt thereof.

The decision of the Appellate Council may be appealed to court by the applicant within six months as of the date of the receipt thereof.

The terms provided by paragraph 4 of Article 30 of this Law and paragraph 1 of this Article elapsed by the applicant may be reinstated by Kyrgyzpatent at the applicant's request filed not later than two months from expiration thereof upon the proof of valid reasons and payment of the fee.

Article 32. Registration of Appellation of Place of Origin of Goods and Granting of the Certificate for the Right to Use Appellation of Place of Origin of Goods. Publication of the information on registration and granting the right to use appellation of place of origin of goods

On the basis of the decision of examination for registration the appellation of place of origin of goods and granting the right to use them under the condition of payment the established fee Kyrgyzpatent shall register appellations of place of origin of goods in the State Register of appellations of place of origin of goods of the Kyrgyz Republic (hereinafter referred to as the Register).

Kyrgyzpatent shall determine the order and list of information entering the Register.

The fee shall be paid within two months as of the date the applicant receives the decision of examination on the registration of appellation of place origin of goods or within three months from the date of expiration the established term of two months under the condition of payment additional fee.

The information related to the registration and granting the right to use appellation of place of origin of goods entered the Register, shall be published by Kyrgyzpatent in the Official Bulletin within three months as of the date of its entering the Register.

Kyrgyzpatent shall issue the certificate after expiration of three months and after publication in the Official Bulletin.

Kyrgyzpatent shall establish the form of certificate and composition of the data, indicated in it.

Article 33. The Term of Validity of the Certificate for the Right to Use Appellation of Place of Origin of Goods

The certificate shall be valid for ten years from the date of filing an application with Kyrgyzpatent.

The period of validity of the certificate may be extended at the request of the owner of certificate and under the condition of submission of a statement from a competent body attesting the fact that the owner of a certificate is situated in a given geographic place and manufactures the good possessing properties indicated in the certificate.

The application shall be filed during the last year of validity of the certificate.

The term of validity of the certificate shall be extended each time for ten years.

At the request of the owner of a certificate, in order to extend the valid term of the certificate, he\she may be provided with the six months term after expiration of the term of validity of the certificate under condition of payment of additional fee.

Kyrgyzpatent shall introduce the record on extension of the term of validity of the certificate in the Register and the certificate.

Article 34. Introduction of the Amendments to the Register and the Certificate

The owner of the certificate shall inform Kyrgyzpatent about the changes of his name, surname or patronymic name, as well as other changes related to the registration and granting the right to use the appellation of place of origin of goods.

The record of the change shall be entered to the Register and the certificate under condition that the fee has been paid.

Article 35. Registration of the Appellation of Place of Origin of Goods in Foreign Countries

Legal entities and natural persons of the Kyrgyz Republic shall have the right to register appellation of place of origin of goods in foreign countries.

The application for registration the appellation of place of origin of goods in foreign

countries shall be filed after its registration and obtaining the right to use that appellation of place of origin of goods in the Kyrgyz Republic.

Section X. THE USE OF APPELLATION OF PLACE OF ORIGIN OF GOODS

Article 36. The Use of Appellation of Place of Origin of Goods

The use of appellation of place of origin of goods shall be deemed to be its use on the good, packing, advertisements, prospectuses, forms, and other documents related to the introduction of a good into an economic turnover.

The persons who do not have the certificate shall not be allowed to use the registered appellation of place of origin of goods, and also use a similar appellation for identical goods which can mislead consumers with respect to the place of origin and special properties of the good.

The owner of certificate shall not have the right to grant licenses for the use of appellation of place of origin of goods to other persons.

Article 37. Warning Marks

The owner of certificate may place a warning mark by the side of the appellation of place of origin of goods which indicates that the designation used is the appellation of place of origin of goods registered in the Kyrgyz Republic.

Section XI. TERMINATION OF LEGAL PROTECTION OF APPELLATION OF PLACE OF ORIGIN OF GOODS

Article 38. Invalidation of the Registration of Appellation of Place of Origin of Goods and the Certificate for the Right to Use Appellation of Place of Origin of Goods

Registration of the appellation of place of origin of goods may be invalidated if it has been conducted in violation of the requirements provided by this Law.

The validity of appellation of place of origin of goods may be terminated in connection with disappearance of the conditions characteristic to a given geographic place and impossibility to manufacture the good with the properties indicated in the Register.

The validity of appellation of place of origin of goods in the name of a foreign legal entity or physical person except for the pointed grounds, shall be also terminated due to the loss of the right to that appellation of place of origin of goods in the country of origin of the good.

A certificate for the right to use appellation of place of origin of goods may be invalidated if it was granted in violation of the requirements provided by this Law.

The validity of certificate may be terminated:

- due to the loss of special properties of the good specified in the Register in respect of this appellation of place of origin of goods;
- in case of cancellation of the registration of appellation of place of origin of goods;
- in case of liquidation of a legal entity or termination of entrepreneurship activity of a natural person - the owner of the certificate without any successor;
- on the basis of an application submitted by the owner of the certificate to Kyrgyzpatent.

Any person may, on the grounds set forth in paragraph 1-4 of this Article, file a protest against the registration of the appellation of place of origin of goods and against granting of the certificate for the right to use the appellation of place of origin of goods with the Appellate Council. The protest shall be examined during four months from the date of receipt thereof. The person who filed a protest and the owner of the certificate shall have the right to participate in the examination of the protest.

The decision of the Appellate Council may be appealed in court by the applicant within six months as of the date of receipt thereof.

Section XII. FINAL PROVISIONS

Article 39. Fees

In order to conduct legally essential action related to the registration of a trademark, registration and granting of the right to use the appellation of place of origin of goods, the fees shall be levied. The fees shall be paid to Kyrgyzpatent

The list actions, for which the fees are collected, the amounts and terms of payment as well as the basis for release from payment of fees, reduction of their amounts and repayment shall be established by the Government of the Kyrgyz Republic.

The fees shall be paid to Kyrgyzpatent by an applicant, the owner of a trademark and a certificate for the right to use appellation of place of origin of goods or by any other legal entities or natural persons due to the agreement with them.

All the means received on the account of Kyrgyzpatent in the form of fees, including currency, payment for services and materials shall be used by Kyrgyzpatent for technical provision, creation and use of automated system, replenishment of the fund of patent

information, training and stimulation of the personnel.

Article 40. Consideration of Disputes Related to Implementation of this Law

Disputes related to the application of this Law shall be considered by courts in the order established by legislation of the Kyrgyz Republic, including disputes which concern:

- 1) infringement of the exclusive right to a trademark;
- 2) conclusion and implementation of the licensing agreement and the agreement on assignment of a trademark;
- 3) illegal use of the appellation of place of origin of goods;
- 4) non-use of a trademark and appellation of place of origin of goods pursuant to the Article 20 of this Law.

The Appellate Council shall examine disputes related to its jurisdiction in accordance with this Law.

Article 41. Liability for Illegal Use of a Trademark and Appellation of Place of Origin of Goods

The use of a trademark and appellation of place of origin of goods or designation similar to a trademark or appellation of place of origin of goods for the similar goods conflicting with the present Law shall entail civil, administrative or criminal liability in accordance with the legislation of the Kyrgyz Republic.

Protection of the civil rights from illegal use of a trademark shall, along with the demand to discontinue infringement or recover the losses caused, shall be also provided by means of:

- publication of the court's decision for the purpose of restoring business reputation of the victim;
- removal of illegally used trademark or a designation similar to it to the extent likely to cause confusion from the product or its packing, or destruction of the prepared depiction of a trademark or designation similar to it to the extent likely to cause confusion;
- arrest or destruction of the goods in relation to which a trademark was used illegally.

The person producing the warning mark in respect of a trademark or appellation of place of origin of goods not registered in the Kyrgyz Republic shall be liable according to the order stipulated by the legislation of the Kyrgyz Republic.

The person illegally using the registered appellation of place of origin of goods or a designation similar to it, on the demand of the owner of the certificate for the right to use the appellation of place of origin of goods, public organization, state body or the prosecutor, must:

- discontinue the use thereof, reimburse the losses caused to all the persons concerned and pay to the income of the local budget the amount of the profit obtained during illegal use of the appellation of place of origin of goods exceeding the losses reimbursed;
- publish the decision of the court for the purpose of restoration of the business reputation of the victim;
- remove the illegally used appellation of place of origin of goods or designation similar to it to the extent likely to cause confusion from the product or its packing or destroy the prepared depiction of appellation of place of origin of goods or a designation similar to it to the extent likely to cause confusion.

Removal of the trademark and the appellation of the place of origin of goods from the goods or their packing, arrest or destruction of the goods that contain illegally used trademarks shall be carried out with the observation of the right of the owner of such a good to protect his/her rights in the order established by the Law.

Article 42. The Rights of Foreign Legal Entities and Natural Persons

Foreign legal entities and natural persons shall enjoy the rights provided by this Law and other normative legal acts related to the legal protection of trademarks and appellations of place of origin of goods, equally to legal entities and natural persons of the Kyrgyz Republic or on the basis of reciprocity.

Article 43. International Agreements

If an international agreement concluded by the Kyrgyz Republic establishes other rules than those contained in this Law, the rules of the international agreement shall be applied.

Article 44. Enforcement of the Present Law

Implement the Law of the Kyrgyz Republic on trademarks, service marks and appellation of place of origin of goods from the moment of its publication.

The President of the Kyrgyz Republic
Adopted by the Legislative Assembly of the
Jogorku Kenesh of the Kyrgyz Republic

A. Akaev
December 16, 1997
