

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

Original: English/
anglais/
inglés

**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 Patent Law, 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 brevets, 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 de patentes, 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 # 8

LAW OF THE KYRGYZ REPUBLIC

On Patent

Section I. General provisions

Section II. Conditions of patentability of objects of industrial property

Section III. Subjects of the Law

Section IV. Exclusive rights to objects of industrial property

Section V. Receipt of protected documents

Section VI. Termination of the validity of the protected documents

Section VII. Rights and privileges of the authors and patent owners

Section VIII. Protection of the rights of patent owners and authors

Section IX. Final provisions

Section I. GENERAL PROVISIONS

Article 1. Relations Regulated by the Patent Law

This law shall regulate economic as well as related to them, personal non-economic relations arising in the territory of the Kyrgyz Republic in connection with creation, legal protection and use of inventions, utility models and industrial designs (hereinafter referred to as objects of industrial property).

Article 2. The State Intellectual Property Agency under the Government of the Kyrgyz Republic

In compliance with this Law, the State Intellectual Property Agency Under the Government of the Kyrgyz Republic (hereinafter referred to as Kyrgyzpatent), shall accept for consideration the applications for objects of industrial property, conduct examination, the state registration, grant protected documents, publish official data on objects of industrial property, issue clarifications on the application of this Law and perform other functions in accordance with the Regulation thereon approved by the Government of the Kyrgyz Republic.

Kyrgyzpatent shall provide for the management of the National Patent Fund, its storage and complex by the way of acquisition and exchange with international organizations and foreign patent agencies.

In order to improve the activity of Kyrgyzpatent on provision of legal protection to the objects of industrial property, the Appellate Council is being established under Kyrgyzpatent, which is the obligatory initial body for consideration of disputes arising with respect to the objects of industrial property, due to its jurisdiction. Kyrgyzpatent shall establish the order of consideration objections by the Appellate Council.

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

Article 3. Legal Protection of the Objects of Industrial Property

The right to the object of industrial property shall be protected by this Law and shall be confirmed by a preliminary patent, patent for an invention or industrial design, or the certificate for utility model (hereinafter referred to as protected documents) which certify the priority, authorship and the exclusive right of the owner of a protected document (hereinafter referred to as patent owner) to these objects of industrial property

A preliminary patent and certificate shall be granted after a preliminary expertise has been conducted.

A patent shall be granted after examination on the essence is conducted.

The scope of legal protection provided by a preliminary patent, patent for an invention, and certificate for the utility model shall be determined by their formula and that for a preliminary patent and patent for an industrial design, by the whole of its essential features shown in the depiction of an article (model) and listed essential features.

Legal protection of the objects of industrial property recognized as a secret by the state, shall be regulated by the legislation of the Kyrgyz Republic.

Article 4. Effective Terms of a Preliminary Patent, Patent and Certificate

A preliminary patent for an invention shall be effective during seven years as of the date of submission of the application to Kyrgyzpatent.

The patent for an invention shall be effective within the period of twenty years as of the date of file of an application with Kyrgyzpatent.

A certificate for a utility model shall be effective within five years as of the date of file of an application with Kyrgyzpatent. At the request of the owner, Kyrgyzpatent may extend the effective period of the certificate for a term not longer than three years.

A preliminary patent for an industrial design shall be effective during seven years as of the date of submission of an application to Kyrgyzpatent.

Patent for an industrial design shall be effective within ten years as of the date of file of an application with Kyrgyzpatent. At the request of the patent owner, Kyrgyzpatent may extend the effective term of the patent for an industrial design for a term not longer than five years.

Section II. CONDITIONS OF PATENTABILITY OF THE OBJECTS OF INDUSTRIAL PROPERTY

Article 5. Conditions of Patentability of an Invention

An object claimed as an invention shall enjoy legal protection if it is new, has an inventive level and applicable in industry.

An invention shall be considered new if it is not known from the standard of technology.

An invention shall be considered as having an inventive level if it does not obviously follow from the standard of technology.

The standard of technology shall include any information which has become generally available in the world before the priority date of the invention.

While establishing the novelty of an invention, the information on the standard of technology shall include not withdrawn applications of other persons, submitted to Kyrgyzpatent with an earlier priority, as well as inventions and utility models patented in the Kyrgyz Republic.

An invention shall be considered applicable in industry if it may be used in industry, agriculture, public health service and in other branches of public economy.

No public disclosure of information shall be considered as affecting patentability if it was made by the applicant, author or by any other person who obtained it from him directly or indirectly under which the information about the substance of an invention became publicly open not earlier than twelve months before the date of file of an application or before the priority date if it is sought. The obligation of proof of this fact lies with the applicant.

The objects of inventions may be a device, method, composition of matter, a strain of microorganism, cells of plants and animals, as well as application of previously known device, method, composition of matter and strain for a new purpose or any other new achievement in the area of technology and technics.

Shall not be deemed as inventions:

- 1) scientific theories and methods of mathematics;
- 2) methods of organization and management of economy;
- 3) signs, schedules and rules;
- 4) methods of execution of mental operations;
- 5) algorithms and computer programs as such;
- 6) drafts and schemes for planned structures, buildings and territories;
- 7) decisions regarding only the appearance of articles aimed for satisfaction of aesthetic needs;
- 8) integrated circuits topography;
- 9) varieties of plants and breeds of animals;

10) decisions contradicting with public interests, principles of humanity and morals, hazardous to the environment.

The objects listed in items 5, 8, 9, of paragraph 9 shall be protected by separate laws.

The presence of algorithm and software programs in the invention shall not be deemed as a fact influencing the patentability of an invention, if they are considered as a part of an invention.

Article 6. Conditions of Patentability of Utility Model

Devices shall be related to utility models.

The object claimed as a utility model shall be provided with legal protection if it is new and applicable in industry.

Utility model shall be considered new if the whole of its significant features is not known from the level of engineering.

The information on the level of engineering shall include data published on the means designed for the same purpose as the utility model claimed, which have become generally available before the date of priority of the application for utility model, the data on their use in the Kyrgyz Republic, not withdrawn applications for inventions and utility models submitted earlier by other persons as well as inventions and utility models patented in the Kyrgyz Republic.

No disclosure of information related to the utility model shall be recognized as affecting novelty of the utility model if made by the applicant or by any other persons who obtained from him the information directly or indirectly under which the information on the essence of the utility model became public, not earlier than six months before the date of submission of an application or the priority date if it is sought. The burden of proof of that fact lies with the applicant.

A utility model is applicable in industry if it can be practically used.

Objects mentioned in paragraph 9, Article 5 of this Law are not protected as utility models.

Article 7. Conditions of Patentability of an Industrial design

Industrial designs shall be artistic and structural embodiments of an article which determine its exterior.

An object claimed as an industrial design shall be given legal protection if it is new, original and applicable in industry.

An industrial design shall be considered new if the whole of its essential features presented in the depiction of an article (model) and in the list of essential features is not known from the information available to the public before the date of priority of the industrial design.

In the course of establishing the novelty of an industrial design, all not recalled applications for industrial designs filed earlier by other persons in the Kyrgyz Republic and the industrial designs patented in the Kyrgyz Republic shall be taken into consideration.

An industrial design shall be considered as original if its essential features determine creative character of peculiarities of the article.

Features that determine aesthetic and (or) ergonomic peculiarities of the exterior of an article, its form and configuration, ornament and combination of colors are considered to be the essential features of an industrial design.

Industrial design shall be considered as applicable in industry if it can be repeatedly reproduced.

No disclosure of information which became generally available to the public, related to the industrial design shall be recognized as affecting patentability of the industrial design if such disclosure is made by an applicant, the author, or any other person who has obtained this information from him, under which the information on the essence of an industrial design became public, not earlier than six months before the date of file of an application or the priority date if its sought. The burden of proof of this fact lies with the applicant.

Shall not be deemed as industrial designs:

- 1) decisions conditioned by solely technical function of the article;
- 2) architectural units (except for small architectural forms), industrial, hydro technical and other stationary structures;
- 3) printed matter as such;
- 4) objects of unstable shape such as liquid, gas, bulk substances or like that;
- 5) articles that contradict public interests, the principles of humanity and morals.

Section III. SUBJECTS OF LAW

Article 8. The Author of the Object of Industrial Property

The natural person by whose creative labor the work is done shall be considered the author of an object of industrial property.

If several natural persons participated in the creation of an object of industrial property, all of them shall be recognized as its authors. The order of using the rights that belong to the authors shall be determined by agreement between them.

Natural persons who have not made personal contribution in the creation of an object of industrial property but who have provided only technical, organizational or material assistance to the author (authors) or who have only helped to form rights for it and the use thereof shall not be recognized the authors.

The right of authorship shall be inalienable personal right and protected without time limits.

Article 9. The Patent Owner

The right to obtain protected document shall belong to:

- 1) the author (authors) of the object of industrial property;
- 2) employer in the cases stipulated in item two of the present Article;
- 3) their successor, including a person obtained appropriate right in the assignment order;

The right to obtain protected document for the object of industrial property created by the employee due to execution of his service duties or a specific task of the employer shall belong to the employer, unless otherwise is provided by the agreement between the employer and employee. .

If the employer, within four months from the date of notification by the author on the created object of industrial property, does not file an application with Kyrgyzpatent, does not reassign the right to the other person to obtain protected document and does not inform the author that the object of industrial property is kept in secret, then the right to obtain protected document is transferred to the author. In that case, the employer shall have the right to use the object of industrial property in his production paying compensation to the patent owner that is determined on contractual basis.

The right to obtain protected document for the object of industrial property created by the employee with the use of experience, material, technical and other means of the employer but not in connection of execution of working duties by the employee or concrete task of the employer shall belong to the employee if otherwise is not specified in the agreement between him and employer. In this case the employer has the right to use the object of an industrial property in his production paying the compensation to the patent owner determined on contractual basis.

Article 10. The Right of the Author to Remuneration

The author who has no right to obtain protected document has the right to get remuneration from the employer paid in the amount and under conditions determined on the basis of the agreement between them.

In the event the agreement between the parties on the amount and the order of payment of remuneration or compensation is not reached the dispute shall be considered by the court.

Should the remuneration or compensation provided in the agreement not be paid in time, the employer guilty of that shall bear liability pursuant to the legislation of the Kyrgyz Republic.

Other relations arising in connection with the creation of the object of industrial property by an employee shall be regulated by the legislation of the Kyrgyz Republic on work inventions, utility models and industrial designs.

Section IV. THE EXCLUSIVE RIGHT TO THE OBJECTS OF INTELLECTUAL PROPERTY

Article 11. The Rights of Patent Owner

The patent owner shall have the exclusive right to protected by the preliminary patent, patent for an invention, industrial design, utility model protected by certificate including the right to prohibit the use of these objects by other persons, except for the cases when such use does not infringe the exclusive right of the patent owner according to this Law.

Relations regarding the use of an object of industrial property the protected document for which belongs to several persons shall be determined by the agreement between them. In the absence of such an agreement, each of them may use the protected object at his own discretion but shall have no right to provide an exclusive license for it or assign the protected document, to the other person without the agreement of other owners.

If an agreement on granting an exclusive license or assignment of a protection document is not achieved between patent owners, division of the rights to the object of industrial property may be decided in the court.

Manufacture, application, import, offer for sale, sale, any introduction to the economic turnover or storage of a product for this purpose that contains an invention, industrial design, protected by a preliminary patent, patent, certificate for the utility model as well as exploitation of the method protected by a preliminary patent, patent for an invention shall be considered as the exploitation of an object of industrial property.

The product shall be deemed containing an invention protected by a preliminary patent, patent, utility model protected by a certificate if it contains every feature of the invention, utility model listed in an independent point of the formula or a feature equivalent thereto, which is known as such in this field of technology at the date of beginning exploitation.. The method protected by a preliminary patent, patent for an invention, shall be deemed applicable if every feature of the invention listed in an independent point of the formula or equivalent to it feature which is known as such in the field of technology on the date of beginning the exploitation is applied.

The product is deemed containing an industrial design protected by a preliminary patent, patent if it includes all of its essential features presented in the depiction of an article (model) and in the list of essential features .

The use of a method protected by a preliminary patent or patent shall be also deemed introduction into an economic turnover or storage with the same purpose of a device by functioning or exploitation of which, pursuant to its assignment, the present method is automatically provided.

The use of a method for production of a good protected by preliminary patent or patent shall be also deemed introduction into an economic turnover or storage with the same purpose of a good produced directly by this method. Under this condition the new product is considered to be manufactured by a patented method if otherwise is not proved.

Manufacture, experimental examination or examination of an experimental design of a product is not deemed the use of an object of industrial property.

The patent owner may assign the obtained protected document to any natural person or legal entity. The agreement on assignment of a protected document shall be registered at Kyrgyzpatent and published in the official bulletin of Kyrgyzpatent. The agreement shall not be valid without registration.

Protected documents and the right to obtain them shall be transferred by succession.

Article 12. Obligations of the Patent Owner and Compulsory Licenses

If the object of industrial property is not used or insufficiently used by the patent owner or persons to whom the rights for it has been transferred, within three years as of the date of granting a protected document, that leads to insufficient supply of the appropriate goods or services at the market of goods and services, any person wishing and ready to use protected document of an industrial property, in the event of refusal of the patent owner to conclude licensing agreement with this person on the conditions pursuant to the common practice, has the right to apply to court with an action to provide him a compulsory license for the use of this object.

If the patent owner fails to prove that the non-use or insufficient use of an object of industrial property is conditioned by excusable reasons, the court shall grant the indicated license specifying the scope of use, the amount, time limits and procedures of payment. The amount of payment must not be lower than the price of the license which is determined in compliance with the established practice.

The patent owner that can not use an invention without infringing the rights of the other owner of a preliminary patent, patent for an invention or certificate for a utility model, who has refused to conclude a licensing agreement based on the conditions that are in compliance with the common practice, has the right to apply to court with an appeal to grant him a compulsory license for the exploitation of an invention or utility model under condition that his invention presents an important technological achievement of the significant economic value with respect to the invention or utility model protected document for which belongs to the other person.

If the indicated license is provided, the court must establish the limits for the use of an invention or utility model, protected document for which belongs to the other person, in the scope necessary to exploit an invention patented by the person requiring to provide him a compulsory license, as well as the amount, terms and payment order. The amount of payment must be established not less than the price for a license which is determined in compliance with the common practice.

In the emergency situations (disasters, catastrophes, big accidents), as well as in the interests of the national security, the Government of the Kyrgyz Republic shall have the right to grant a compulsory license coupled to payment of an applicable compensation to a patent owner, in this case the volume and the time of exploitation of the patented object of industrial property shall be restricted by the purposes for which it was allowed. Disputes arising due to such exploitation shall be decided by court.

The compulsory license shall always be non-exclusive license, it cannot be reassigned to another person.

Article 13. Actions Not Considered as an Infringement of the Exclusive Right of the Patent Owner

Not recognized as an infringement of the exclusive right of the patent owner:

- 1) application of the means containing objects of industrial property protected by preliminary patents, patents, or certificates in the construction or during exploitation of transport facilities (sea-going, river, air, land and cosmic) of other countries under condition that said facilities temporarily or accidentally stay in the territory of the Kyrgyz Republic and are used for the needs of transport facility. Such actions shall not be considered as an infringement of the exclusive right of the patent owner if transport facilities belong to natural persons or legal entities of the countries that provide the same rights to the owners of transport facilities of the Kyrgyz Republic;
- 2) conducting scientific research or an experiment with an article containing an object of industrial property;
- 3) application of such means during emergency situation (natural calamities, catastrophes, big accidents) with subsequent payment of a commensurate compensation to the patent owner;
- 4) application of means containing objects of industrial property protected by preliminary patents, patents and certificates if these means are introduced into an economic turnover in a legal way in compliance with the rights granted by a patent owner.. In this case the person who under the permission of the patent owner acquires a mean containing patented object of an industrial property or manufactured with the use of the patented method, shall have the right to use or dispose this mean without additional permission, unless otherwise is provided by the agreement.

Article 14. The Right of Prior Use

Any natural person or a legal entity who before the date of priority of an invention, utility model, industrial design, regardless from the author, has created and used on the territory of the Kyrgyz Republic a solution similar to the object of an industrial property or made the required preparations shall keep the right to use it free of charge without enlarging the scope.

The right of prior use may be assigned to another natural person or legal entity but together with the production where the use of identical solution has taken place or the required preparations has been made for that purpose.

Article 15. Granting the Right to Use the Object of Industrial Property

Any person who is not the patent owner shall have the right to use an object of industrial property protected by a protected document only with the permission of a patent owner on the basis of licensing agreement.

According to the licensing agreement, the patent owner (licenser) takes an obligation to give the right to use a protected object within the scope provided in the agreement to another person (licensee) and the latter takes an obligation to make payments to the licenser provided in the agreement and perform other actions provided in the agreement.

In the case of an exclusive license the licensee shall be given an exclusive right to use an object of industrial property within the limits provided in the agreement, retaining the right to use the object of industrial property with the licenser in the part which is not transferred to the licensee.

In the case of non-exclusive license, the licenser while giving the right to the licensee to use an object of industrial property shall retain all the rights which come out from the patent, including the right to transfer the license to a third party.

A license may contain provisions different from the ones indicated in this Article on the basis of mutual agreement between a licenser and a licensee.

A licensing agreement shall be subject to registration at Kyrgyzpatent and shall not be valid without such registration. The licensing agreement shall become effective as of the date of its registration at Kyrgyzpatent, and shall be published in the official bulletin of Kyrgyzpatent.

A patent owner may file an application with Kyrgyzpatent to the effect that he is granting the right to use an object of industrial property (open license) to any person under conditions established in the agreement. In this case the fee, in order to keep patent effective, shall be reduced by 50% as of the year following the year of publication of the information about such application by Kyrgyzpatent.

The application of a patent owner on granting the right to an open license can not be withdrawn.

Disputes on the refusal to conclude an agreement as well as on the condition of the agreement shall be examined in court.

Article 16. Violation of a Protected Document

The use of an industrial design, invention protected by a preliminary patent, patent, utility model protected by a certificate without maintenance of conditions established by the present Law is considered violation of a protected document.

The patent owner has the right to require:

- discontinue violation of a protected document;
- indemnification of losses caused, including lost profit and compensation of moral damage by a person guilty of violation of a protected document;
- exaction of income received by the infringer of a protected document instead of indemnification of losses;
- payment of compensation by an infringer in the amount of 10 to 50.000 minimum salaries established by the legislation of the Kyrgyz Republic, determined at the discretion of court instead of indemnification of losses or exaction of income;
- confiscation of products to ones own benefit introduced to an economic turnover or stored for this purpose and considered as infringing a protected document as well as means specially directed for the infringement of a protected document;
- publication of court decision in order to rehabilitate his\her business reputation.

Demands to the infringer of a protected may also be made by the owner of the exclusive license if otherwise in not specified by the licensing agreement or by the owner of non-exclusive license, if this is provided by the licensing agreement.

Section V. THE RECEIPT OF PROTECTED DOCUMENTS

Article 17. File of an Application for the Grant of a Protected Document

An application for the grant of a protected document shall be filed with Kyrgyzpatent by the a person who has the right to receipt protected document in accordance with Article 9 of the present Law (hereinafter referred to as an applicant).

An application for the grant of a protected document shall be filed in the Kyrgyz or Russian language. The formula of the invention or utility model, the list of essential features of industrial design, the name of the object of industrial property, the name of an applicant and patent owner must be submitted in the Kyrgyz or Russian language. If other documents of the application as well as documents presented during examination of an application are submitted in the other language, the translation into Kyrgyz or Russian shall be attached. The applicant must present the translation into Kyrgyz or Russian not later than three months as of the date of file of an application with Kyrgyzpatent.

At the petition of an applicant the term of presenting indicated documents may be prolonged and reinstated in the event of its violation under the proof of valid reasons and payment of appropriate fee.

An application may be filed through a patent agent registered at Kyrgyzpatent. Natural persons residing out of the Kyrgyz Republic or foreign legal entities or their patent agents shall conduct operations related to obtaining protected documents as well as protection of object of industrial property through the patent agents registered at Kyrgyzpatent.

The authority of a patent agent shall be attested by a power of attorney issued to him by a person, in whose name the patent is requested.

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

Article 18. Application for the Grant of a Preliminary Patent or Patent for an Invention

Application for the grant of a preliminary patent or patent for an invention (hereinafter referred to as the application for an invention) shall be related to one invention or a group of inventions so closely related to each other that they meet the requirements of the unity of an invention.

The application for an invention must include:

- 1) application for the grant of a preliminary patent or patent with the indication of the author (authors) of an invention and the person (persons) in whose name the preliminary patent or patent is sought, their place of residence or destination;
- 2) description of the invention disclosing it fully enough to embody it by the specialist in this field;
- 3) the formula of an invention expressing its essence and fully based on the description;
- 4) draughts and other materials if these are necessary for understanding the subject matter\essence of an invention;
- 5) essay.

The application for an invention shall enclose the document that proves payment of fee in the established amount or grounds for the exemption from payment of fee as well as reduction of its amount which may be provided at submission of an application or within two months under condition of payment of additional fee.

The application is considered to be withdrawn if this document is not provided in the established term.

The date of file of an application with Kyrgyzpatent is set as of the date of receipt of the documents necessary to establish the priority pursuant to the requirement of paragraph 1, Article 21 of the present Law, but if these documents are not presented simultaneously, than it is established on the date of receipt of the last one of the documents presented.

Other requirements to the documents of the application for an invention shall be established by Kyrgyzpatent.

Article 19. Application for the Grant of a Certificate for a Utility Model

An application for the grant of a certificate for a utility model (hereinafter referred to as application for the utility model) shall be related to one utility model or a group of utility models so closely related to each other that they meet the requirement of the unity of utility model.

The application for a utility model must include:

- 1) the application for granting of the certificate with specification of the author (authors) of the utility model and a person (persons), on whose name the certificate is requested, as well as the place of their residence or destination;
- 2) description of the utility model disclosing it fully enough to embody it;
- 3) the formula for a utility model fully based on the description;
- 4) draughts if necessary for understanding the essence of a utility model;
- 5) essay.

The application for a utility model shall be enclosed with the document that proves payment of a due fee in the established amount or grounds for exemption from payment for the file of an application as well as reduction of the amount which may be provided at submission of an application or within two months under condition of payment of additional fee.

The application is considered to be withdrawn if this document is not provided in the established term.

The date of file of an application with Kyrgyzpatent is set as of the date of receipt of the documents necessary to establish the priority pursuant to the requirement of paragraph 1, Article 21 of the present Law, but if these documents are not presented simultaneously, than it is established due to the date of receipt of the last one of presented documents.

Other requirements for the documents of the application for an invention shall be established by Kyrgyzpatent.

Article 20. Application for the Grant of a Preliminary Patent or Patent for an Industrial Design

An application for the grant of a preliminary patent or a patent for an industrial design (hereinafter referred to as the application for industrial design) must be related to one industrial design or a group of industrial designs so closely linked with each other that they meet the requirement of the unity of an industrial design).

The application for an industrial design must include:

- 1) the application for granting of a preliminary patent or a patent with specification of the author (authors) of an industrial design and a person (persons), on whose name the preliminary patent or a patent is requested, as well as the place of their residence or destination;
- 2) set of depiction of an article (model) which give full and detailed idea of the exterior of an article.
- 3) the draught of the whole exterior of an article, ergonomic scheme, confection map, if they are necessary for the disclosure of the essence of an industrial design;
- 4) description of the industrial design;
- 5) the list of its essential features.

The application for an industrial design shall be enclosed with the document that proves payment of a due fee in the established amount or grounds for the exemption from payment of fee as well as reduction of the amount which may be provided at submission of an application or within two months under condition of payment of additional fee.

The application is considered to be withdrawn if this document is not provided in the established term.

The date of file of an application with Kyrgyzpatent is set as of the date of receipt of the documents necessary to establish the priority pursuant to the requirement of paragraph 2, Article 21 of the present Law, but if these documents are not presented simultaneously, than it is established on the date of receipt of the last one of the documents presented.

Other requirements to the documents of the application for an invention shall be established by Kyrgyzpatent.

Article 21. Priority of Invention, Utility Model, Industrial Design

Priority of an invention and utility model shall be established on the date of file of an application with Kyrgyzpatent which contains an application for the grant of a preliminary patent, patent, or certificate, description, formula and draughts, if there is a reference thereto in the description.

Priority of an industrial design shall be established on the date of file of an application containing an application for the grant of a patent, preliminary patent, a set of depiction, a description and the list of essential features of an industrial design; .

Priority may be established on the date of filing of the original application in a country member of the Paris Convention on Protection of Industrial Property (convention priority) if the application for an invention or a utility model is filed with Kyrgyzpatent during twelve months, and the application for an industrial design, during six months from said date.

If due to the circumstances beyond control of an applicant the application claiming convention priority could not be filed within the required term, the time period may be extended but not more than for two months.

An applicant wishing to use the right of convention priority must indicate this during filing of an application or during two months from the date of file of an application with Kyrgyzpatent and attach a copy of the initial application or present it not later than three months from the date of receipt of the application by Kyrgyzpatent.

Priority may be established on the date of submission the additional materials if they have been prepared by an applicant as an independent application filed before expiration of a three months term from the date of receipt a notification from Kyrgyzpatent to the effect that it is not possible to accept additional documents since they are deemed to change the essence of the matter claimed.

Priority may be established on the date of submission to Kyrgyzpatent an earlier application of the same applicant disclosing that invention, utility model, industrial design if the application on which the priority is sought has been filed not later than twelve months from the date of filing of an earlier application for invention and six months in case of an earlier application for a utility model, an industrial design An earlier application shall be considered withdrawn.

Priority may be established on the basis of several earlier filed applications, under condition that the established terms are observed for each of them.

Priority may not be established on the date of file of an application on which an earlier priority was sought.

Priority of an invention, utility model, industrial design on selected application shall be established on the date of filing an initial application with Kyrgyzpatent disclosing this object of industrial property, if selected application is filed before the decision to refuse to grant a protected document on the initial application is made and the opportunity to appeal is exhausted and in the case of granting a protected document on that application, before the date of registration of the object of industrial property in the State Register.

If during the examination it is established that identical objects of industrial property have the same priority date, the protected document shall be granted on the application for which an earlier mailing date to Kyrgyzpatent is proved, and if these dates coincide, on the application having an earlier registration number of Kyrgyzpatent.

Article 22. Correction of the Application Documents on the Initiative of the Applicant

During two months from the date of receipt of the application, an applicant shall have the right to introduce amendments and specifications to the documents without changing the essence of the claimed object of an industrial property.

Such amendments and specifications may be submitted on the applications for the objects of industrial property and after expiration of the indicated term, under condition of payment of the fee, but no later than the decision to grant a protected document is made.

Article 23. Formal and Preliminary Examination of the Application for an Invention

Kyrgyzpatent shall conduct formal examination after expiration of two months as of the date of submission of an application.

At the petition of the applicant, formal expertise may be started before expiration of the indicated term. In this event, the applicant shall be deprived of the right, provided by paragraph 1, Article 22 of this Law, from the moment of submission of the petition.

In the course of formal examination of the application, composition of the necessary documents, stipulated in Article 18 of this Law shall be examined, as well as correctness of their filling, and compliance of the solution claimed with the objects of industrial property, for which the legal protection is provided.

If the application meets all the requirements of formal expertise, a notification that the application is accepted for consideration shall be sent to the applicant.

If in the result of the formal expertise it is established that the application is submitted for a decision, which is not referred to the objects, to which legal protection is granted, a notification shall be sent to the applicant, that the application cannot be accepted for consideration.

On expiration of the stage of formal expertise on the application for invention, a preliminary expertise shall be conducted within twelve months.

While conducting preliminary expertise, compliance of the claimed invention with the criteria of patentability of the materials of an application provided by the applicant, the fund of issued protected documents of the Kyrgyz Republic, as well as non-withdrawn applications with an earlier priority shall be checked.

If the applicant, in accordance with Article 22 of this Law, provided additional materials, in the course of the preliminary expertise it shall be checked, that they do not change the essence of the claimed invention.

Additional materials shall change the essence of the claimed invention if they contain features that are supposed to be included into the formula of an invention which have been absent from the initial materials of an application. Additional materials of the part, which change the essence of the claimed invention, shall be taken into account in the course of consideration of an application and may be registered by the applicant as an independent application.

On applications, which had been filed in violation of the requirements of unity, an applicant shall be offered to inform, within two months period, which of the proposals must be considered, and clarify documents of the application.

Other decisions, included in the materials of the initial application, may be formalized as separate applications.

In the event, if the applicant within two months from the date of receipt of the notification on the violation of the requirement of the unity of an invention does not inform which of the proposals should be considered and does not submit clarifying documents, the first mentioned in the formula proposal shall be considered.

On the application, filed in violation of the established requirements to the form and composition, a request to provide amended or missing materials shall be sent to the applicant within two months from the date of its receipt.

In the event, if the applicant fails to provide required materials or the petition for extension of the established term, within the indicated term, the application shall be deemed withdrawn.

On the application which has past preliminary expertise with a positive result, a decision to grant preliminary patent shall be made which is granted under responsibility of the applicant.

In the event if the decision to grant a preliminary patent at the request of the applicant was made before expiration of 12 months from the date of file of an application with Kyrgyzpatent and a similar application with the claim of the earliest conventional priority was received during aforementioned term, the decision on granting shall be deemed as canceled.

In the event of receipt the petition to conduct expertise on the essence simultaneously with the materials of the application or before the expiration of two months period after the decision to grant the preliminary patent is made, the preliminary patent shall not be granted on the application of an applicant.

If in the result of the preliminary expertise it is established that the claimed proposal is not patentable under conditions set forth in this Article, a decision on refusal to grant a preliminary patent shall be made.

The applicant may file an objection to this decision with the Appellate Council within two months after the receipt of refusal to grant a preliminary patent. The Appellate Council must consider the objection within two months as of the date of its receipt.

In the event the applicant does not agree with the decision of the Appellate Council he may appeal to court within six months as of the date of its receipt.

Article 24. Examination of Application for Invention on Essence\Substance

At the request of an applicant or third parties which may be submitted within five years as of the date of file of an application, Kyrgyzpatent shall conduct scientific-technical examination of the substance of applications that has passed preliminary examination with a positive result, within twenty four months. An applicant shall be notified about the requests, filed by the third parties.

During examination of an application on substance Kyrgyzpatent shall be entitled to request the applicant to submit materials without which examination procedure is not possible, including changed formula of the invention.

Additional documents on the request of examination shall be submitted without changing the essence of the invention during two months from the date of receipt the request.

The order established by Article 23 of this Law shall extent to additional documents in the part that changes the essence of an invention.

If in the result of scientific-technological examination of an application on essence Kyrgyzpatent finds that the claimed proposal, within the scope of legal protection required by an applicant, meets the requirements of patentability of the invention, established by Article 5 of this Law, the decision to grant a patent with the formula of an invention suggested and agreed with the applicant is made.

If the claimed proposal does not meet the requirements of patentability within the scope of legal protection required by an applicant the decision on rejection to grant a patent shall be issued.

The applicant may file an objection against the decision on rejection to grant a patent with the Appellate Council during three months from the date of its receipt. The objection must be reviewed by the Appellate Council during four months from the date of its receipt.

Should the applicant not agree with the decision of the Appellate Council he may, within six months from the date of its receipt, appeal to court.

The applicant shall have the right to familiarize himself with all the materials indicated in the decision of examination or in the search report. Copies of the patent materials requested by the applicant shall be sent by Kyrgyzpatent during one month from receipt of the request.

The terms provided in Article 23 and this Article of the present Law, except for the terms established in paragraph 20 of Article 23 of this Law and paragraphs 1 and 8 of this Article, elapsed by the applicant, may be reinstated by Kyrgyzpatent in the presence of proof of excusable reasons and payment of the fee.

The petition to reinstate the term may be filed by an applicant not later than twelve months from the date of expiration of the elapsed term.

Article 25. Examination of the Application for a Utility Model

Examination of the application for utility model shall consist of formal and preliminary examination.

During the examination of an application for utility model the provisions of Article 23 of the present Law shall be applied. If it is found during examination that the application has been filed for a proposal related to the patentable objects and its documents prepared correctly the decision to grant a certificate shall be made.

Article 26. Reorganization of Applications

Before publication of the information on preliminary patent, patent for an invention, an applicant has the right to reorganize the application for invention by filling an appropriate declaration to the application for the utility model. Reorganization of the application for utility model into an application for the invention is possible before the decision on granting of a certificate is made.

In the case of indicated reorganizations of applications the priority of the first application is preserved.

Reorganization of applications shall be exercised under the payment of an appropriate fee.

Article 27. Examination of the Application for an Industrial Design

The Kyrgyzpatent shall conduct formal, preliminary and substantial examination of the application for an industrial design.

During formal and preliminary examination of the application for an industrial design provisions of Article 23 of this Law shall be applied.

During substance examination of an application provisions of Article 24 of this Law shall be applied.

Article 28. Registration of the Objects of Industrial Property

After the decision to grant a protected document is made, provided that the fee for registration and granting of a protected document is paid, Kyrgyzpatent shall enter in the State Register of Inventions of the Kyrgyz Republic, the State Register of Utility models of the Kyrgyz Republic or the State Register of Industrial Designs of the Kyrgyz Republic the invention, utility model or an industrial design respectively.

The document certifying payment of the fee for registration and grant of a protected document shall be provided within two months as of the date the applicant receives the decision to grant a protected document or within three months after the date of expiration of two months term under the condition of payment of additional fee.

In the event the document certifying payment of the fee for registration and grant of the protected document is not provided in the established order, registration of the object of industrial property and grant of the protected document shall not be carried out and the application shall be considered withdrawn.

Article 29. Publication of the Information on Registration of the Objects of Industrial Property

Kyrgyzpatent shall issue the official bulletin, which includes publication of the information on registration of the objects of industrial property within six months from the date of their registration. Kyrgyzpatent shall determine the list and full content of published information.

After publication of the information on registration of the objects of industrial property any person has the right to familiarize himself with the materials of applications.

Article 30. Grant of Protected Documents

Kyrgyzpatent shall grant a protected document during of three months from the date of the official publication of the information on their registration in the official bulletin.

The protected document shall be granted on behalf of the Kyrgyz Republic and shall be signed by the head of Kyrgyzpatent.

If there are several persons in whose name a preliminary patent, a patent or a certificate is sought one protected document shall be granted to them.

Kyrgyzpatent shall grant the author's certificate to the author of the object of industrial property who is not the patent owner

The form of protected document and author's certificate as well as content of indicated information therein shall be determined by Kyrgyzpatent.

Kyrgyzpatent shall introduce corrections of obvious and technical mistakes in granted protected document and author's certificate at the requirement of the patent owner and the author.

Section VI. TERMINATION OF THE VALIDITY OF PROTECTED DOCUMENTS

Article 31. Disputes Against Protected Documents

Within the whole period of its validity a protected document may be considered invalid in full or in part, due to the objection against its granting in the following cases:

- 1) the protected decision does not meet requirements of patentability as provided by this law,
- 2) the formula of the invention, utility model or the list of the essential features of the industrial design contain features missing in the initial documents of the application;
- 3) author (authors) or their owners have been incorrectly indicated in the preliminary patent, patent or certificate.

A person who filed an objection must give his/her reasons for it and submit a document certifying payment of a fee.

An objection against the grant of a protected document on the grounds provided in points 1) and 2) of this Article must be examined by the Appellate Council within the term of six months after the date of its receipt; the patent owner must get acquainted with the objection.

A person who filed an objection and the patent owner may participate in its consideration. In this case, the Appellate Council shall not go beyond the reasons, contained in the objection against the grant of protected document.

Should the applicant not agree with the decision of the Appellate Council on the objection against the grant of a protected document, any of the parties may, within the period of six months from the date of making a decision, file an appeal with court.

Article 32. Premature Termination of Protected Documents

The period of validity of protected documents shall be prematurely terminated ahead, if:

- 1) a patent is recognized as fully invalidated pursuant to the Article 31 of this law;
- 2) on the basis of a declaration filed by the patent owner with Kyrgyzpatent if the refusal does not violate the interests of the third parties ;
- 3) the fee, in order to support a protected document, is not paid in the established term;
- 4) cancellation of the decision on issuance of a preliminary patent in compliance with paragraph 16, Article 23 of the present Law .

The Kyrgyzpatent shall publish information on premature termination of a protected document in the Official Bulletin.

Section VII. RIGHTS AND PRIVILEGES OF THE AUTHORS AND PATENT OWNERS

Article 33. Rights and privileges of Authors

An author shall have the right to assign his name or a specific title to the object of industrial property at any stage of examination of application.

The authors of most important and widely used inventions may be granted an honorary title “Honored Inventor of the Kyrgyz Republic”.

Article 34. State Incentives for Creation and Exploitation the Objects of Industrial Property

In order to stimulate scientific-technological development, strengthen intellectual potential of the Kyrgyz Republic, promote the development of technical and artistic creation as well as create and exploit the objects of industrial property, The State Intellectual Property Fund of the Kyrgyz Republic (hereinafter The State Fund) is being established under Kyrgyzpatent.

The State Fund on behalf of the State has the right to obtain the rights of the patent owner for the patented objects of industrial property in order to implement them in future and use in the interests of the State.

The State Fund shall provide its activity in compliance with the regulation approved by Kyrgyzpatent.

The sources of financing of the State Fund shall be means of the republican budget, deductions from the patent fees, collections, means received due to the activities of the Fund and other receipts.

Pursuant to legislation of the Kyrgyz Republic, the State shall establish preferential taxation as well as provide other rights and privileges to the authors and economic entities exploiting objects of industrial property.

Section VIII. PROTECTION OF THE RIGHTS OF PATENT OWNERS AND AUTHORS

Article 35. Consideration of Disputes in Court

Disputes related to the application of the present Law shall be examined in accordance with the order established by the legislation of the Kyrgyz Republic.

The courts in accordance with their jurisdiction, shall consider the following disputes:

- 1) authorship to the objects of industrial property;
- 2) granting of a protected document;
- 3) establishing the patent owner;
- 4) issuance of a compulsory license;
- 5) infringement of the exclusive right to use the protected object of industrial property and other economic rights of the patent owner;
- 6) conclusion and execution of licensing agreements for the use of a protected object of industrial property;
- 7) right to the prior use;
- 8) payment of remuneration to the author by the employer pursuant to the agreement stipulated in paragraph 1, Article 10 of this Law;
- 9) other disputes related to the protection of rights.

Article 36. Liability for Infringement of the Authors' Rights

Appropriation of authorship, forced co-authorship, illegal disclosure of the information about the object of industrial property shall entail liability stipulated in the legislation of the Kyrgyz Republic.

Section IX. FINAL PROVISIONS

Article 37. Patent Fee

The fees shall be collected for file of an application in order to grant protected documents for the objects of industrial property, examination and granting of protected documents for the objects of industrial property, keeping them in effect, extension of validity term and other legally valid acts. The list of actions for which the fee shall be collected, its amount and terms of payment and also grounds for exemption from payment, reduction of the amount or reimbursement of the fee shall be established by the Government of the Kyrgyz Republic.

The fee shall be paid to Kyrgyzpatent by the applicant, patent owner or any natural or legal entity, under agreement with them.

All means entered the account of Kyrgyzpatent in the form of fees, including currency and payment for services and materials shall be used by Kyrgyzpatent for technical provision, creation and exploitation of automated system, complex of patent information's fund as well as training and stimulation of the personnel.

Article 38. Patenting of the Object of Industrial Property in Foreign Countries

Submission of applications to foreign countries for the objects of industrial property created in the Kyrgyz Republic shall be exercised after expiration of three months as of the date of file of an appropriate application with Kyrgyzpatent.

In the necessary cases, Kyrgyzpatent may allow patenting of the objects of industrial property in foreign countries earlier than the indicated term, after the examination of an application for the presence of information which is of the state secret has been conducted in the order established by Kyrgyzpatent.

In the event of submission of an application to foreign countries or international organizations for the object of industrial property created in the Kyrgyz Republic, with violation of the order established by the present Article, the protected document for this object of industrial property is not granted in the Kyrgyz Republic

Article 39. Rights of Foreign Natural Persons and Legal Entities

Foreign natural persons and legal entities shall exercise the rights provided in the present Law and other normative legal acts related to legal protection of the objects of industrial property on an equal basis with natural persons and legal entities of the Kyrgyz Republic by virtue of international agreements of the Kyrgyz Republic or on the principle of reciprocity.

Stateless persons residing in the territory of the Kyrgyz Republic shall exercise rights provided by this Law and other acts related to legal protection of the objects of industrial property equally with natural persons and legal entities of the Kyrgyz Republic, unless otherwise follows from this Law and other acts of the legislation of the Kyrgyz Republic.

Article 40. International Agreements

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

Article 41. Implementation of the Present Law

Implement the Law on Patent of the Kyrgyz Republic from the moment of its publication.

President of the Kyrgyz Republic

A. Akaev

Adopted by the Legislative Assembly
Of the Jogorku Kenesh of the Kyrgyz Republic

December 16, 1997
