

# LAW OF THE KYRGYZ REPUBLIC "ON TRADEMARKS, SERVICE MARKS AND APPELLATIONS OF PLACES OF ORIGIN OF GOODS"

The Law of the Kyrgyz Republic

"On Trademarks, Service Marks and Appellations

of Places of Origin of Goods"

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

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 Body in the Field of Intellectual Property

The authorized state body in the field of Intellectual Property (hereinafter referred to as 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 activities 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 afore-mentioned 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

## 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 respectively 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.

Verbal, visual, three-dimensional and other designations or its combinations may be registered as trademarks.

A trademark may be registered in any color or color combination

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 visually indistinguishable, as well as to sound and olfactory marks.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

### 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.

The exclusive right for a trademark shall arise since the date of publication of the information related to registration of a trademark in the State Register of the Trademarks (hereinafter referred to as Register), in the Official Bulletin, issued by Kyrgyzpatent.

Unauthorized use of designation identical or similar to the extent likely to cause confusion with trademark of such owner, as a website in Internet is recognized as infringement of a right of trademark owner as well. The order of use of a trademark or designation similar with the latter to the extent likely to cause confusion, as a website in Internet is established by the Government of the Kyrgyz Republic.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

### 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, 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;

3) came into general use as designations of goods of a certain kind;

4) generally accepted terms and symbols for the goods regarding to which terms and symbols are suggested to be used as marks;

5) 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, 3, 4 and 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 representing or containing the pointing to the place of origin of wines or strong alcoholic drinks protected by virtue of international agreements of the Kyrgyz Republic, if such designations are intended for wines or strong alcoholic drinks, which do not originate from indicated places as well as formally pointing to the real place of production of goods but giving a false idea concerning goods origin from other territory;

3) the ones contradicting public interests, principles of humanity and morals.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 5. Other Grounds for Refusal in Registration

The following designations, which are identical or similar to the extent likely to cause confusion with:

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) firm names registered or filed for registration in the Kyrgyz Republic - regarding identical or similar kinds of activities or goods and services;

3) other persons' trademarks protected without registration by virtue of international agreements of the Kyrgyz Republic.

can not be registered as trademarks for similar goods.

The following designations, which are identical or similar to the extent likely to cause confusion with:

1) recognized in established order as well-known trademarks in the territory of the Kyrgyz Republic. The well-known criteria for a trademark and order of well-known recognition are established by the Government of the Kyrgyz Republic;

2) appellations of origin protected in accordance with this Law, except the cases when it is included as non-protected element into a trademark registered in the name of person which has a right to use such appellation.

can not be registered as trademarks for any goods.

The following designations, which are reproducing:

1) known in the territory of the Kyrgyz Republic firm names (or its parts) regarding similar goods, belonged to other persons, obtained the right for such designations before the date of priority of the application for trademark regarding similar goods;

2) 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;

3) 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;

4) 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.

shall not be registered as trademarks

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

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 person 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 entities 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 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;
- 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) description of the claimed designation;
- 3) charter of a collective mark if the application is filed for a collective mark.

The date of submission of an application is considered the date of receipt of the documents by Kyrgyzpatent, as stipulated by partitem seven of the present Article. If the documents are submitted non-simultaneously, the date of submission of an application is considered the date of receipt of the latter one.

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

Kyrgyzpatent shall establish the requirements to the application documents.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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 member-state of the Paris Convention on Protection of Industrial Property (conventional priority) if the application has been filed with Kyrgyzpatent within six months from the set date. The day of filing of the first application is not included into calculation of this term.

The priority of a trademark placed on exhibits at official or officially recognized international exhibitions organized in the territory of one of the member-state 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 conventional 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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.

During the examination before making a decision the applicant shall be entitled to add, specify or correct the materials of the application.

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 Register.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 9. Preliminary Examination

Preliminary examination of an application shall be conducted during one month since the date of submission of the application to Kyrgyzpatent. During preliminary examination, the composition of the required documents, provided by paragraph 3 of Article 2 and Article 6 of this Law.

During preliminary examination, the request may be sent to the applicant concerning necessity to submit additional materials. Reply to such request should be submitted within two months. By the petition of the applicant, on the basis of reasonable grounds and payment of appropriate fee, Kyrgyzpatent may allow to extent this terms 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, a decision made whether to accept an application for consideration or to refuse it.

Notification on the refusal decision made shall be sent to the applicant.

A decision concerning accept of the application to consideration and positive result of preliminary examination as well as the date of application filing shall be sent to the applicant.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 10. Examination of the Claimed Designation

Examination of the claimed designation shall be conducted after completion of the preliminary examination within the term of 12 months, starting from the date when the application was filed.

During the examination a compliance of the claimed designation to the requirements established by paragraph 1 of Article 2, Articles 4 and 5 of this Law is checked and trademark priority is established in accordance with Article 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 should 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 12 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 12 months.

If 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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.

Terms provided by paragraph 2 of Article 9, paragraph 5 of Article 10 of this Law and paragraphs 1 and 4 of this Article elapsed by the applicant may be restored by Kyrgyzpatent 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 12. Registration of a Trademark

Kyrgyzpatent shall register trademarks in 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 13. Publication of Information on Registration

The information related 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 making 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 registration 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 16. Making of Changes to the Registration

The owner of a trademark shall notify Kyrgyzpatent about the changes to be made: 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 appropriate fee is paid.

Kyrgyzpatent shall make correction of obvious and technical errors made not due to the applicant's fault to the Register and to the Certificate of a trademark, without payment of any fee.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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.

The charter of a collective mark, which contains a data concerning name, list of legal entities that possess the right to use such mark, the purpose of its registration, list and unified qualitative or other common characteristics of goods, which will be designated by collective mark as well as conditions of use of such mark, order of monitoring of its use, liability for infringement of the charter of a collective mark, shall be enclosed to the application for a 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

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

A trademark may be also deemed as being used if it is used as a website or link in Internet.

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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 21. Warning Marking

The owner of a trademark may use a warning mark by the side of the trademark in the form of Roman letter R or (r) or verbal designation "registered trademark" indicating that the used designation is a trademark registered in the Kyrgyz Republic.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Section VI.

#### TRANSFER OF A TRADEMARK

#### Article 22. Assignment 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.

Assignment 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 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 Article 4 of the present Law.

Registration of a trademark may be considered invalid in full or partially 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 5 of this Law. This rule shall not be applied for trademarks registered or used unfairly.

Registration of a trademark may be considered invalid in full within the whole effective term if such registration is made in violation of the requirements established by paragraph 2 of Article 3 of this 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 the applicant within six months as of the date of its receipt.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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 3 of Article 19 of this Law;
- 3) on the basis of court decision on premature termination of its validity due to the failure to use the trade mark pursuant to the paragraph 5 of Article 20 of this Law;
- 4) on the basis of Kyrgyzpatent decision on premature termination of its validity, and in case of if it is appealed in the court - on the basis of court decision, 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;
- 5) 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;
- 6) in the case of refusal by the owner of a trademark on the basis of his application submitted to Kyrgyzpatent.

The trademark that terminates its effective term in accordance with points 1, 4 and 6 of this Article can not be registered in the name of new person during three years since the date of termination of effective term.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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 date of receipt of the documents by Kyrgyzpatent provided by paragraph 3 of this Article is considered as the date of application filing, if the said documents are submitted non-simultaneously - the date of receipt of the last of submitted documents.

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 above-mentioned documents of the application shall be established by Kyrgyzpatent.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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 request, due to valid reasons and payment of appropriate 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 one month as of filing of an application with Kyrgyzpatent, a preliminary examination 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 one month 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 application shall be accepted for consideration or decision on refusal in accept of the application is made.

The applicant shall be notified that the application on registration the appellation of origin is refused.

The applicant shall be notified about positive results of preliminary examination and the date of the application filing established in accordance with Article 29 of this Law and applicant shall be notified that the application is accepted for consideration.

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

Kyrgyzpatent shall make a decision on the registration of appellation of place of origin of goods and granting the right to use it, or refusal in registration of appellation of place of origin of goods and granting the right to use it, or decision on granting the right to use the already registered appellation of place of origin of goods or refusal in granting the right to use it based upon the results of examination.

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

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

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 (competent bodies) 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 34. Introduction 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.

Correction of obvious and technical errors made not due to the applicant's fault shall be made by Kyrgyzpatent into the Register and the certificate for the right to use the appellation of place of origin of goods without payment of any fee.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 35. Registration 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 use of appellation of place of origin of goods shall be deemed to be its use as a website or link in Internet.

The persons who do not have the certificate shall not be allowed to use the registered appellation of place of origin of goods, even if real place of origin of a good is indicated, or if designation is used in translation or in combination with such expressions as “kind”, “type”, “imitation” and so on, 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### Article 37. Warning Marking

The owner of certificate may place a warning mark by the side of the appellation of place of origin of goods in the form of verbal designation “registered appellation of place of origin of goods” or “Reg. НПМТ “, which indicates that the designation used is the appellation of place of origin of goods registered in the Kyrgyz Republic.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

#### 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 during the whole effective period if it has been conducted in violation of the requirements established by this Law.

The certificate for use the appellation of place of origin of goods may be invalidated if it has been issued in violation of the requirements established by this Law or in connection with cancellation of registration of the appellation of place of origin of goods.

On the grounds provided by paragraphs 1 and 2 of this Article any person may file a protest against registration of the appellation of place of origin of goods with the Appellate Council. A protest shall be considered within four months since the date of receipt. Both appealing person and owner of the certificate have a right to participate in the consideration of the protest.

Decision of the Appellate Council may be appealed in the court by the applicant within six months since the date of receipt.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

Article 38-1. Determination 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.

The validity of registration of appellation of place of origin of goods may be terminated:

- \* due to disappearance of the conditions characteristic to a particular geographic place and impossibility to manufacture the good with the properties indicated in the Register;
- \* due to the loss by foreign legal entities or natural persons of the right for particular appellation of place of origin of goods in the country of origin of a good

The validity of certificate for the right to use the appellation of place of origin of goods may be terminated:

- \* due to termination of the registration of appellation of place of origin of goods on the grounds provided by paragraph of this Article;
- \* due to expiration of validity provided by Article 33 of this Law;
- \* 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 and indentation 4 of paragraph 2 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 decision of the Appellate Council may be appealed in court by the applicant within six months as of the date of receipt thereof.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

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 of 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 or designation similar to a trademark regarding similar goods or well-known trademark or designation similar to thereof or name of appellation of place of origin of goods or designation similar to appellation of place of origin of goods regarding any 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.

(Version of the Law of the Kyrgyz Republic of February 27, 2003 # 46)

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 A. Akaev

Adopted by the Legislative Assembly of the

Jogorku Kenesh of the Kyrgyz Republic December 16, 1997