

**Director General
World Intellectual Property
Organization (WIPO)
Francis Gurry
E-mail: scp.forum@wipo.int**

Dear Francis Curry,

In reference to your letter (Circular C. 8728 dated February 09, 2018) we report the following.

Requested *information on several aspects of national patent legislation* by you has been prepared by taking into consideration of amendment and supplements to the Law of the Kyrgyz Republic «Patent Law» (hereinafter referred as Patent Law of KR) dated January 25, 2013 and April 10, 2015 and contains in an Appendix.

Regarding the issue «*Filing of exception national system and other mechanisms of administrative cancellation and invalidation of patent*» we inform, that according to the article 31 of the Patent Law of the KR, the patent within its validity can be acknowledged as invalidated totally or partially due to exception against of its issuance in cases:

- 1) Non-conformity of protected decision to the patentability condition, stipulated by the Patent Law of the KR;
- 2) Existence of utility models at the claims of the invention or attributes of essential features of industrial designs in the list, demands absent in the original materials of the application;
- 3) False indication of an author in the patent (authors) or their holders.

Entity, filing on objection is obliged to motivate it, as well as to submit a document on fee payment. The objection shall be filed in the official or state languages and served in two copies.

The objection for the granting of a patent due to basis, stipulated by before mentioned articles 1, 2 must be considered by the Appeal Board within six months from the date of its acceptance; Patent owner must be introduced with objection.

The entity filing objection as well as patent owner can participate in its consideration. Herewith the appeal board stays within springs, contained in objection against of issuance of a patent. In case of disagreement with decision of an Appeal Board on objection against of issuance of a patent any of the side can apply for lawsuit within six month from the date of taking decision.

According to the article 32 of the patent law, patent is to be acknowledged as totally invalid or partially upon a decision of the Appeal Board or the Court decision, which took a legal effect.

Effect of patent will be terminated:

1) Upon expiry of upon expiry of the term of its validity established in accordance with this Law;

2) in case of failure to pay the fee for maintenance of the patent in force within the prescribed period - from the date of expiry of the prescribed period for payment of the fee for maintenance of the patent in force;

3) on the basis of the application filed by the patent owner in Kyrgyzpatent, if the refusal does not violate the interests of third parties - from the date of publication in the official Bulletin of Kyrgyzpatent information on early termination of the patent in connection with the application of the patent owner.

According to the issue “National Law and practice regarding the scope of application of the principle of confidentiality of communications between clients and their patent attorneys”, we report that in accordance with article 14 of the law of the KYRGYZ Republic "on patent attorneys" information that the patent attorney receives from the principal in connection with the execution of his order is considered confidential, unless otherwise specifically indicated by the principal or should not be obvious from his actions.

The patent attorney must provide safe-keeping of a document, receivable and (or) containing within a process of patent attorney activity. The patent attorney is not entitled to transfer these documents or copies thereof to third parties or discloses orally the information contained therein without the written consent of the person whose interests he / she represents.

Article 13 of indicated law defines responsibility of the patent attorney for non- qualified and poor quality performance of the contract obligation with a principal the patent attorney bears property and other responsibility in accordance with the legislation of the Kyrgyz Republic.

Complaints of anyone, related with improper performance of professional duty by the patent attorney, and as well as commissioning actions by him, violating requirements of regulatory legal acts of the Kyrgyz Republic is considered by the Appeal Committee of authorized stated body in the field of Intellectual Property.

Concerning of any *additional materials for preparation of the draft of reference documents on limitations and exceptions to patent rights in the context of patent protection, as well as guidelines on examination and instructions of important judicial practices or interpretation of decisions on the issues under consideration* please be advised that there are no materials of this nature.

**Sincerely,
Acting Chairman**

S. Baizakov

SEVERAL ASPECTS OF A PATENT LAW OF THE KYRGYZ REPUBLIC

- Related art (Prior art)

Technical level includes:

1. *Any information, which became accessible to the public in the world before the priority date of invention.*
2. *Unrevoked application of other entities filed with Kyrgyzpatent, inventions and utility models with earlier priority and patented in the Kyrgyz Republic.*

- Novelty

Invention acknowledged as new if it's unknown in the prior art. Prior art includes any information becoming accessible to the public in the world before the date of invention priority, unrevoked application of other bodies filed with Kyrgyzpatent, invention and utility models with earlier priority and patented in the Kyrgyz Republic.

- Inventive level (Obviousness)

The invention has inventive level if it for the specialist in this field does not obviously follow from the prior art.

Prior art includes any information which became accessible to the public in the world before the priority date of invention.

- Grace period

Not recognized as circumstance, impacting to the patentability, public disclosure of information, relating thereto, by the applicant, the author or any person who received from him directly or indirectly this information, in which information on the essence of the invention became publicly available not earlier than twelve months before the filing date or before the priority date, if requested. At the same time, the obligation to prove this fact lies with the applicant

- A sufficient degree of disclosure of the invention

In the description, the invention must be disclosed with sufficient completeness for the implementation of a specialist in this field.

- • Exceptions from patentable subject matter

Not recognized as inventions:

- 1) Discoveries;*
- 2) Scientific theories and mathematical methods;*
- 3) Economical organizations and management methods;*
- 4) Symbols, schedules, rules;*
- 5) Rules and methods of intellectual operation performances, game-playing;*
- 6) Software for computer machines as such;*
- 7) Decisions, which consist only in providing information;*
- 8) Projects and schemes in designing of facility, building, territories;*
- 9) Decisions, related only external shape of fabrications, directed for aesthetic needs satisfaction;*
- 10) integrated circuit topography;*
- 11) Plant varieties and animal breeds;*
- 12) Decisions, against public interests, humanity and morality principles, damaging environment.*

- Exclusions and limitation of rights

1. Application of resources, containing inventions, protected by the patents in construction or in maintenance of a transportation (marine, riverine, aerial, above land and space) other countries, in condition, that indicated resources temporary or occasionally are located within the territory of the Kyrgyz Republic and used for the need of vehicle transportation.

2. carrying out scientific research or experiment on the means containing the invention.

3. The use of such funds in emergency circumstances (natural disasters, disasters, major accidents, epidemics), subject to payment of the patent owner remuneration;

4. Resource application containing invention, protected by patents, if these resources are inserted to the economic circulation by a legal means in accordance with the rights granted by the patent owner. Thus the person, acquainting a resource due to the permit of patent owner, containing patented invention or fabricated by using of patented method has the right to use or to dispose of this funds without purchasing additional permission, unless otherwise provided by the agreement;

5. Using of invention for satisfaction of personal, family, home or others, not related with entrepreneurship, need, is the goal of such use is not receiving a benefit or profit;

6. Import into the territory of the Kyrgyz Republic, application, offer for sale, sale, other introduction into civil circulation or storage for these purposes of the product in which the invention is used, if this product was previously introduced into civil circulation in the territory of any country by the patent holder or other person with the permission of the patent holder.

7. Compulsory license.