

**Any kind of information published anywhere in the world and made available to the public before the priority date. 2. All applications filed in the Republic of Kazakhstan by other applicants for inventions and utility models (except for the revoked ones), and inventions and utility models that have been patented in the Republic of Kazakhstan with an earlier priority date.**

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

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

(Additionally:

The priority of industrial property subject matter shall be determined by the filing date of the industrial property application.

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

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

**The invention is not anticipated by prior state of the art. The state of the art consists of any kind of information published anywhere in the world and made available to the public before the priority date, and all applications filed in the Republic of Kazakhstan by other applicants for inventions and utility models (except for the revoked ones), and inventions and utility models that have been patented in the Republic of Kazakhstan with an earlier priority date.**

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

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

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

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

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

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

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

**Disclosure shall not be deemed as affecting the patentability of the invention, if the application for the invention was filed within six months after: (a) such disclosure by the inventor (applicant) or any person having obtained the information directly or indirectly from them; (b) demonstration of an invention as an exhibit at an official or officially recognized international exhibition organized in the State party to the Paris Convention.**

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

**The description, disclosing the invention in sufficient detail for it to be carried out by a specialist in the field.**

The invention application shall contain the description, disclosing the invention in sufficient detail for it to be carried out by a specialist in the field.

**Discoveries, scientific theories and mathematical methods. 2. Methods of organization and management of economy. 3. Symbols, schedules, rules. 4. Rules and methods of performing the mental activities, conducting the games. 5. Computer software and algorithms. 6. Projects and plans for structures, buildings, territories. 7. Proposals concerning solely the outward appearance of manufactured articles. 8. Proposals that are contrary to public interest, humanitarian principles or morality.**

The following shall not be recognized as patentable inventions:

- 1) discoveries, scientific theories and mathematical methods;
- 2) methods of organization and management of economy;

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

**The use in the construction or in the operation of transportation vehicles of foreign countries (river and marine, air, automobile and space crafts) of a product, incorporating a protected industrial property subject matter, provided that such transportation vehicles are located in the Republic of Kazakhstan temporarily or accidentally and that the said product is used solely for the needs of transportation vehicle. Such acts shall not constitute an infringement of the exclusive right of the patent owner that relate to the transportation vehicles belonging to the individuals and legal entities of foreign countries granting similar right to individuals and legal entities of the Republic of Kazakhstan. 2. Conducting scientific research or scientific experiment on a product, incorporating a protected industrial property subject matter, if the purpose of such scientific research or experiment is not obtaining the income. 3. The use of such product in extreme situations (natural disasters, catastrophes, and dramatic accidents), provided that the patent owner is notified as soon as possible and paid a commensurate compensation. 4. The use of such product for private, family, domestic or other non-commercial purposes, if the purpose of such use is not obtaining the income. 5. In urgent cases, one-time production in pharmacies, based on the prescriptions. 6. Import into Republic of Kazakhstan, the use, offer for sale, selling, any other form of distribution for commercial purposes or stocking for above purposes of products containing the industrial property subject matter, if such product has been earlier distributed for commercial purposes in the Republic of Kazakhstan by the patent owner or by another person, authorized by the patent owner. 7. Continued prior use by a person who had conceived and was using the invention in good faith in the Republic of Kazakhstan before the priority date, or was making effective and necessary preparations for that purpose. 8. Compulsory licenses.**

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

- 1) the use in the construction or in the operation of transportation vehicles of foreign countries (river and marine, air, automobile and space crafts) of a product, incorporating a protected industrial property subject matter, provided that such transportation vehicles are located in the Republic of Kazakhstan temporarily or accidentally and that the said product is used solely for the needs of transportation

vehicle. Such acts shall not constitute an infringement of the exclusive right of the patent owner that relate to the transportation vehicles belonging to the individuals and legal entities of foreign countries granting similar right to individuals and legal entities of the Republic of Kazakhstan;

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

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

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

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

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

## **Opposition systems and other mechanisms for administrative revocation and invalidation of a patent**

The protected document shall be deemed invalid in full or in part on the basis of a court decision.

In the case of recognition of title of protection as invalid partly, on the remaining protected object of the invention, the option of invention, utility model or industrial design shall be issued a new patent. Patent for invention, utility model or industrial design, recognized as invalid in whole or in part, shall be cancelled from the date of filing of the patent application.

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

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

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

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

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

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

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

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

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

3. The time limit for considering an objection may be extended up to three months at the written request of the applicant.

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

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

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

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

1) on satisfaction of the objection;

2) on partial satisfaction of the objection;

3) on refusal in consideration of the objection;

4) on refusal in satisfaction of the objection.

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

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

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

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

9. The adopted decision may be appealed in court.