

## **Regulation for consideration of application for trade mark registration**

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### Introduction

This Regulation for consideration of application for trade mark registration (hereinafter, Regulation 2) were drafted in compliance with Law of the Republic of Kazakhstan "On Trade Marks, Service Marks and Names of Goods Origin", regulations and

Methodology documents adopted by KazPatent.

When drafting this Regulation, modern requirements for harmonization of legislation on Trade Marks, as well as application of automatized search system in expertise process were taken into account.

### List of abridgements:

Law – Law of the Republic of Kazakhstan "On Trade Marks, Service Marks and Names of Goods Origin"

Regulation 1 – Regulation for compiling and submission of application for trade mark registration

Regulation 2 – Regulation of consideration of trade mark registration application

Trade Mark – Trade mark and/or service mark

Goods – Goods and/or services

ICGS – International Classification of Goods and Services (Nice Classification)

Paris Convention – Paris Convention on Protection of Industrial Property

### 1. Application Reception

Application, complied and submitted to KazPatent in compliance with Regulation 1, is given a number, date of its submission is recorded. Only printed applications are to be considered.

Necessary and sufficient document for application to be submitted for consideration with fixed number and date of submission is application for officially adopted by KazPatent in Kazakh or Russian language with the following information:

- full official name of applicant;
- full reciding place of applicant;
- marking applied for registration in compliance with par.

2.3. of Regulation 1;

- list of goods and/or services for which protection is asked for (minimum is name of one good or one service);
  - signature, in compliance with par. 3. Regulation 1.
- if one of the mentioned information points lacks, application is not considered to be handed-in, its documents are to be returned.

Application recorded cannot be returned.

Applicant or his/her representative is given a receipt on reception of application documents.

Application received for consideration goes through expertise by KazPatent in compliance with Art. 10 of the Law, of this Regulation and International Agreements concluded in the sphere of Trade Marks in 2 phases: preliminary expertise and complete expertise.

## 2. Preliminary expertise

### 2.1. Tasks

Preliminary expertise identifies if application documents and information contained in them are complete and corresponding to requirements established in Regulation 1.

### 2.2. Period

Preliminary expertise is carried out within 1 month from the date of submission of application into KazPatent. If request is sent to Applicant this period is relatively extended.

### 2.3. Decisions

On results of preliminary expertise Unit for Trade Marks takes a decision on reception or rejection of application consideration. Request is sent to Applicant if application documents need addenda or specification or modification of separate information.

2.3.1. Decision on reception of application for consideration is taken in case when application fully meets requirements set up in Art. 6 of the Law and par. 2. of Regulation 1.

Applicant or his/her authorized representative is notified by established form (ФТ3-2), including the following data:

- 210 – application number
  - 220 – date of application submission
  - 230 – date of exhibition or other priority<\*>
  - 310 – number of prioritized application<\*>
  - 320 – date of prioritized application<\*>
  - 330 – code of country of prioritized application according to Standard БОИС<\*>
  - 511 – indication of ICGS classes
  - 540 – picture of trade mark
  - 591 – colour spectrum<\*>
  - 554 – indication that mark is volumetric<\*>
  - 551 – indication that mark is collective<\*>
  - 710 – name of applicant
- Reference. (<\*> Indication is set in in relative cases).

2.3.2. Prioritization of the application, in compliance with Art. 9 of the Law, is established:

- by date of reception of documents and information by KazPatent, mentioned in par. 1. of this Regulation, or by date of submission of the latest document or information mentioned in par. 1. of this Regulation;
- by date of submission of the first application in one of countries of Paris Convention;<\*>
- by date of demonstration of objects of applied as Trade Marking in the International Exhibition<\*>.

Conventional or other priority, in case if it is asked for, is established as a result of expertise, in case of meeting requirement established by Paris Convention that 6 month period after date of submission of the first application in the country-participant of Paris Convention shall be kept or after first demonstration in the officially acknowledged International exhibition, if case of availability of all needed documents and information confirming right for earlier priority, including:

- certified copy of earlier submitted application;<\*>
- confirmations of Administration or Organization Committee of officially acknowledged International Exhibition on demonstration of trade mark on goods mentioned in the application<\*>;
- petition on establishment of earlier priority, submitted not later than deadline established by Art 9 of the Law, that is 2 month from the date of application submission;
- compliance of applied marking and list of goods and services with marking and listing mentioned in the application submitted earlier.  
changes are allowed only towards reduction of listing;<\*>
- compliance of marked goods exhibited in International Exhibition with those mentioned in the listing, of mark itself with that submitted for registration.

Plural priority in relation to different classes of goods is established by petition of applicant in case of submission of several applications for one marking, with different classes of goods mentioned.

priority for individual applications is established by date of original application priority.

Priority of the trade mark can be established by date of priority of the international application for registration, in compliance with International Agreements of Kazakhstan.

If fact of simultaneous submission of applications for registration of identical marks in relation to similar goods is established (same day) and the view is to establish priority, commission of experts examines post stamp of mail and in case of their identity this commission offers applicants to come to some agreement in 3-month period. If documented confirmation of achieved agreement does not arrive in the date mentioned, commission of experts has a right to consider both applications withdrawn.

2.3.3. Decision on denial to receive application for consideration is taken in case of lack of information in the documents mentioned in par. 1. of this Regulation, as well as if within 2 months from the submission date there was no documentary

confirmation of duty payment for application letter of attorney submission, in compliance with par. 3. Art. 6 of the Law.

Applicant receives established form of the decision (ФТ3-3) and offer to get application registered in compliance with established regulation. Decision on denial to receive application for consideration cannot be taken on the ground of lack of other documents or information than those mentioned in par. 1. of this Regulation. All other documents and information shall be requested from applicant during preliminary expertise in the way of requests. For that period for preliminary expertise is correspondingly extended.

2.3.4. Request is sent to applicant in case if during preliminary expertise violation of requirements put to application documents are found out. The documents shall comply with requirements in par. 6 of the Law, Regulation 1, and this Regulation.

Request can include the following requirements:

- to submit application in the form established, including all needed information;
- to specify complete legal name of applicant;
- to give information of government registration;
- to send lacking number of copies of the applied marking;
- to present marking in compliance with requirements of par. 2.3. of Regulation 1;
- to mention/specify colour spectrum, if it is not mentioned or does not comply with marking;
- to present translation, explanation of word-formation or transliteration if wording is given in the language different from Kazakh or Russian;
- to specify or change ICGS classification if it does not comply with the latest adopted wording;
- to specify list of goods, if the latest is presented by not accurate or super-concept terms and ideas;
- to submit document confirming payment of deficient amount of duty, as well as any other information and documents, lack thereof impedes paper work re application and does not allow to finalize the preliminary expertise phase.

Some additional information and specifications can be requested together with notification submission.

2.3.5. Preliminary expertise request shall be replied not later than 2 months from the date of receipt by the applicant in compliance with par. 2. Art. 10 of the Law. This period may be extended at the instance of applicant under condition of payment of relative duty for not more than 6 months.

in case if in the reply there is no irrefragable information and/or requested documents other request is sent to the applicant. If there is no reply for the repeated request or if there is no irrefragable information irrefragable and/or documents, as well as if applicant did not reply within period established by the legislation and did not submit written request for its extension, application will be considered withdrawn. Decision on withdrawal of application and discontinuance of work paper re application is sent to applicant (ФТ3-5).

in case of timely submission of all requested information and/or documents, satisfying requirements of the commission of experts, applicant receives notification on adoption of his/her application for consideration. Termination of preliminary expertise phase is issue of Notification, after that applied documents go through

complete expertise.

### 3. Complete expertise

#### 3.1. Tasks

Complete expertise identifies compliance of applied marking with demands made to trade marks from the point of protection ability formulated in Art. 14 and 15 of the Law.

Protection ability of the mark means legal property determined by aggregate of characteristics, needed for registration of marking as trade mark.

Besides, during phase of complete expertise data established in the preliminary expertise phase shall be verified (for example, prioritization or correctness of ICGS classification).

#### 3.2. Period

Complete expertise is carried out during 12 month from the date of submission and may be extended depending on the intermediate correspondence taking place between KazPatent and applicant. If expertise of the applied marking depends on expertise results of another marking which has earlier priority, then this expertise is to be interrupted until final decision re application with earlier priority is not taken.

#### 3.3. Decisions

On the results of expertise decisions on registration or denial for registration of applied marking as trade mark can be taken. Decision on denial for registration is taken stage by stage as preliminary and final decisions.

preliminary decision on denial for registration allows the commission of experts within established period to submit reasoned objection and/or additional documents, on the basis thereof the commission of experts could change its decision in favor of applicant.

if submitted applied documents and/or information needs to be added or specified, request on it is sent to applicant.

3.3.1. Decision on registration is taken on the basis of experts' conclusion that applied marking complies with terms of protection ability.

if applied marking meets established requirements in the part of goods presented in the list, then decision is taken on the registration of trade mark in relation to this part of goods with indication of reasons for denial re other part.

If mark includes indications, mentioned in par. 3.4.1. and

3.4.2. of this Regulation, and they do not occupy dominating presentation in it – then decision includes indication of elements without protection ability (disclaiming).

Applicant receives decision on registration as trade mark in the form (ΦT3-6), in which the following information is given:

540 – indication of registered as trade mark

730 – owner of trade mark, his/her address

210 – number of application

220 – date of its submission

310, 320, 330 – priority data re application submitted earlier – correspondingly, number, date, country of application submission<\*>

510, 511 – list of goods and services, grouped in ICGS classes

526 – elements excluded from protection<\*>

551 – indication if mark is collective<\*>

554 – indication that mark is volumetrical<\*>

591 – indication of colour spectrum<\*>

Reference. (<\*> indication is given in relative cases).

Decision on registration of trade mark may be reconsidered by KazPatent if application with earlier priority given on the basis of international agreements for identical or similar indication is submitted. It can be reconsidered in connection with registration of name of origin of good and according to ex officio if additional circumstances were found out. Decision on registration (as final decision on denial) may be reconsidered on the basis of decision of commission of experts.

3.3.2. Decision on denial for registration (preliminary) is taken on the basis of expert conclusion on inconsistency between applied indication and terms of protection ability.

at that applicant is sent a decision on denial for registration in the established form (ФТ3-7), where there are reasons for denial based on the Law, this Regulation and international agreements.

3.3.3. Objection for denial decision (предварительное) is received by KazPatent within 2 months from the date of submission by applicant (applicant's representative) under condition of payment of relative duty. If document confirming duty payment is lacking, objection is not taken into consideration by the commission of experts. Period for objection submission may be extended at the instance of applicant for not more than 6 months under condition of payment of additional duty.

When decision on registration of trade mark is taken after repeated consideration, taking additional information or documents submitted by applicant into account, duty for issue of certificate is not imposed, at that duty for submission of objection for preliminary denial is taken into account.

in case of no objection for preliminary denial in the established period and no petition on extension of period for objection submission, then preliminary denial is considered to be final denial, no additional notice is given to applicant.

3.3.4. Decision on denial (final) is taken by commission of experts after study of all arguments given by applicant in case if the latest turned out to be insufficient for change of decision in favor of applicant. Decision on denial (ФТ3-8) can be called in question by applicant through submission of objection to Court of Appeal not later than 3 months from date of reception of denial under condition of payment of relative duty.

3.3.5. Request of commission of experts may refer to different information and documents, lack thereof impede to final judgment re application. In case if commission of experts have valid doubts re reliability of any submitted document or information, commission of experts has a right for request of needed evidence from

applicant.

Request can refer, in particular, to:

- 1) submission of missing documents and information or to their correction;
- 2) need for change of classification, specification of list of goods, presentation by more concrete terms;
- 3) evidence of carrying out entrepreneurs' activity by physical person applying for registration of mark in his name;
- 4) extra charge of duty, if in the result of expertise additional classes of ICGS were found out;
- 5) applicant opinion re adverse indications found out as a result of search, if commission of experts have grounds to presume availability of circumstances which allow to take decision in favor of applicant, etc.

3.3.6. Request shall be replied and sent to KazPatent not later than 2 months from date of its reception. If the reply does not contain information and documents requested by experts, applicant can receive another request. In case of non-submission of requested documents within period established by established legislation, application is considered withdrawn, applicant is notified of it in a written form.

periods established for reply can be extended in the instance of applicant for not more than 6 months under condition of payment of relative duty.

3.4. Verification of absolute grounds for denial for registration of indication of trade mark is carried out on the basis of international agreements in the area of protection of industrial property and Art. 14 of the Law.

3.4.1. Application in the applied indication of State symbols – emblems and flags, shortened or full names of international intergovernmental organizations; official control, guarantee and marks of assays, seals, awards and other insignia (or similar up to confusion level) – can serve a ground for denial for its registration as trade mark.

Such indications can exist in the mark as non-protected elements, if they are not the only elements in the composition of the indication and if consent for its use was given by relative competent body or by its owner.

Reference fund for making expertise are documents of WOIS with indications protected in view of Art. 6-ter of Paris Convention, as well as other reference and information documents.

Application of particle KAZ in the trade mark as indication of nationality, is allowed exclusively for names of government enterprises and organizations, or by approbation of authorities.

3.4.2. Distinguishing feature is characterized to marks which do not have direct descriptive and/or associative link with goods or services, for indication thereof they are used. Absence of distinguishing feature is established if:

- indication is not integrated graphical picture, for example, separate lines, simple geometric figures, not connected with each other by common composition and not giving as aggregate some new level of perception;
- indication, having no wording character, consisting of combination of not fewer than three separate units of the language (letters and/or digits);

- indication is naturalist or sketchy picture of goods, and in relation to them protection is requested;
- indication is three-dimensional object, shape thereof is caused exclusively by functional destination;
- indication is generally adopted symbol or term  
(that is, symbolizing branch, kind of activity; graphical symbol applied in sciences and engineering technology, as well as lexical unit, peculiar to separate spheres of science and engineering technology) in conformity with applied goods and/or services;
- indication is name of good, points to sort, kind, quality, quantity, feature, destination, value of the good, as well as the place and time of its production.

Indications carrying advertising or complimentary character do not have distinguishing feature.

Multy-component, artificially formed words do not possess distinguishing ability, if each of the parts does not have distinguishing ability, and artificial word forming did not get additional semantic meaning.

Indications, mentioned in this paragraph, can be included into trade mark as non-protected elements, if they are not dominating in it, domination is determined by its semantic and spatial meaning.

For making expertise reference literature both of general (encyclopedia), and special character(reference books) are used, as well as monographs and scientific articles.

3.4.3. False or deceitful for consumer re good or its manufacturer by par 3. Art. 14 of the Law are those indications which cause in the consumer's perception conception of certain quality of the good, of its manufacturer, or of its place of origin, which do not represent the facts.

Indication is acknowledged false or deceitful if at least one of its elements is false or deceitful.

3.4.4. Conflicting with public interests, with principles of humanity and morality by par. 3. Art. 14 of the Law are those indications of obscene contents, of inhuman character, insulting human dignity, national or religious feelings.

If applied indication contains in its elements at least one of those indications, mentioned in par. 3.4.3. and 3.4.4. or contains of only those indications, mentioned in par. 3.4.1. of this Regulation, then commission of experts comes to the conclusion that registration as trade mark is impossible.

3.4.5. Indications, reproducing industrial standards, cannot be registered as trade marks, if they have protection as industrial standards in the name of the third persons, or on behalf of the third person similar application for the industrial standard with earlier priority was submitted to KazPatent.

Search is made in the fund of industrial standards applied and being registered in KazPatent.

3.4.6. Well-known indications are firm names and trade marks, having become widely known in Kazakhstan as a result of massive dissemination of goods and/or advertisement, irrespective of their registration as trade mark, as well as of goods marked by them.



Reasons for denial for registration of these indications, in addition to Art. 15 of the Law, are Art. 6 bis and 10 bis of Paris Convention.

Commission of experts has a right for denial to register well-known mark in the name of the third persons for indication of any goods and/or services, if it can be regarded as unfair use of reputation of the well-known mark and misrepresentation of consumer re quality or origin of the good.

To acknowledge indication well-known, commission of experts may take into account information received from public opinion poll. Also the following factors, like term, territorial dissemination, categories of consumers of goods, price evaluation of trade mark, inputs for advertising, etc shall be taken into account.

3.4.7. Application in trade marks of firsts and last names, pseudonyms, portraits of well-known people to avoid violation of personal non-property rights is possible only with written consent of these persons or of their assignees.

If these indications are property of history and culture of Kazakhstan, permission of the Government for its application as trade mark is obligatory.

There is no violation of personal non-property right in application of last names as trade mark, for example, if this name is used in the telephone book more than 20 times.

3.4.8. Application of titles of well-known works of literature and arts or of their fragments is possible if author's rights are not violated.

3.4.9. Geographic names or marks, including geographic names, able to mislead the consumer re place of applicant's origin, as well as if registration thereof in the name of one owner may infringe rights of the third persons, are not registered.

Indications in the way of geographic names, having acquired fancy character re applied goods, may exist in the mark as non-protected elements.

Indications, identical or similar up to confusion with names of place of origin of goods registered in Kazakhstan in the name of the third persons, are not registered re any classes of goods. Names of places of goods' origin may be included as non-protected element into trade mark of the person, having right for application of this name of place of origin of the good. Search is made in the fund of registered places of origin.

3.4.10. Certification marks, mark of standard conformance, registered in the established procedure, shall not be registered as trade marks.

3.5. Verification for identity and similarity designation is carried out on the basis of par. 1. Art. 15 of the Law.

Identical are those indications which coincide with each other in all elements.

Similar up to confusion are those indications which, irrespective of difference in some elements, may be perceived by customers associatively as identical.

Search is made:

- among indications registered earlier and applied for registration in Kazakhstan;
- taking into account of marks of the third persons protected in Kazakhstan without registration owing to international agreements;
- among names of places of origin earlier registered and applied for registration;

- among industrial standards, earlier registered or applied for registration in KazPatent.

To verify identity and similarity the following activity shall take place:

- search of identical or similar indications is carried out;
- degree of similarity between indications applied and found out is established;
- homogeneity is determined between applied goods and goods for which identical or similar indications were registered (applied).

At that those marks are taken into account for which 3-Year period from the date of registration validity suspension is not expired, in compliance with Art. 23 of the Law, as well as those marks which were denied for registration, and period for disputed decision is not expired.

3.5.1. Similarity of wording indications is determined by comparison:

- with wording indications;
- with combined indications, composition thereof include wording elements.

Similarity of wording indications may be sound one (phonetical), graphic (visual) and semantic.

3.5.1.1. Sound (phonetic) similarity is determined on the basis of such attributes as:

- number of syllables;
- availability of coinciding letters and sounds close in sounding;
- closeness of coinciding sounds;
- availability of coinciding syllables and their location;
- location of coinciding acoustic patterns in the composition of indications;
- closeness of vowels composition;
- closeness of consonants' composition;
- character of coinciding parts of indications;
- stress, etc.

These characteristics may be taken into account as each taken separately and in different combinations, depending on their determining meaning when establishing sound image and by perception of customer.

Formation of automatized search image is carried out by expert according to the following scheme:

- 1) word unit in full;
- 2) transliteration of indication (Cyrillic-Roman alphabet);
- 3) nulling of unlimited number of symbols on the left and on the right;
- 4) verification of separate parts of the word, which have independent semantic meaning;
- 5) consecutive nulling of each syllable;
- 6) replacement of consonants by phonetic equivalents;
- 7) replacement of vowels by phonetic equivalents;
- 8) doubled nulling of vowels;
- 9) doubled nulling of consonants;
- 10) replacement of each doubled letter by one;
- 11) consecutive replacement of letters and combination of letters by their phonetic equivalents and other modifications.

Depending on their position in the word, equivalents can be acknowledged, for example:

Kaz. graphics	Rus. graphics	Roman graphics
	Ш=Ж	SH=SCH=J=G
	Т=Д	T=D=GHT=TH
	С=З=Ц	S=C=Z=SS
A=Ә	К=Г=X	K=G=H
Г=Г=К=К	В=Ф	v=F=PH=FF=W
И=И	П=Б	P=B
Н=Н	Ч=Ш	CH=TCH
О=Е	У=Ю	U=OO=YOU=OU
У=У=Y	Е=И	E=Y=EE=EA=I
X=H=f	А=Я	
	О=Y	
	М=Н	

Attributes listed may be taken into account as each separate and in different combinations.

Application of hieroglyphs, Arabic or other graphics shall be accompanied by transliteracy. At that search is made both by graphic image and by transliteracy.

3.5.1.2. Graphic (visual) similarity of wording indications is determined on the basis:

- general visual impression;
- kind of print;
- way of writing, including order of letters and alphabet;
- colour and colour combination;

Search is made among wording and graphic indications, Having wording character.

3.5.1.3. Semantic similarity is determined through perception of mark by Kazakhstani consumer according to criteria:

- coincidence of ideas;
- opposition of ideas;

Coincidence of one of the elements of the indication which has logical stress and can have independent meaning is taken into account.

3.6. Coincidence of graphic or volumetric indications is determined by the following attributes:

- external shape;
- availability or absence of symmetry;
- form and character of picture;
- combination of colours.

Colour and colour combination cannot be only attributes of trade mark, they can be considered its significant additional attributes.

Formation of automatized search image is made with application of International Classification of Graphic Elements, predominantly, of two first levels of gradation.

Search is recommended to be made according to the following scheme:

- geometric figures dominating in the graphic mark;
- dominating graphic figures, including separate letters and digits;
- aggregate of dominating elements;
- picture not dominating in the applied composition, but having composition completeness;
- labels, in addition to search by basic elements, are verified by index 25.1. - labels.

Search is made among graphic, combined indications, including graphic elements, as well as among volumetric marks.

3.7. Combined indications are studied for similarity of combined indications as a whole and for similarity of its separate elements. If identity or similarity up to confusion of separate elements (wording, graphic) is found out, the combined indication is not denied for registration as a whole.

3.8. Homogeneity of goods is determined with a view to find out compliance of the indication applied for registration with criterium of "protection ability".

goods are homogeneous if they fulfill the same function, refer to the same type (kind), which in marking by identical or similar marks may make consumer think of its belonging to the same manufacturer. Homogeneity of goods is determined by the following attributes: type (kind), destination, marketing terms, circle of consumers.

To determine homogeneity of goods the list of goods containing in the application is compared with list of goods, in relation to which the identical or similar trade marks were registered or applied.

Goods cannot be considered as similar only on that ground that they were referred to one ICGS class, belonging to the different classes is not evidence of their heterogeneity.

So heterogeneous goods are clothes and footwear, included into 25<sup>th</sup> class of ICGS, gloves included into classes 10, 21 and 9, depending on their functional destination.

Corresponding classes, including homogeneous goods/services can be considered, for example,

- 1 and 5 – re chemical products for agriculture and pesticides
- 3 and 5 – re cosmetics and deodorants
- 16 and 41 – re printed production and publication of printed production
- 25 and 40 – re clothes and tailoring, etc.

#### 4. Verification of payment of duty

Duty payment is verified, in compliance with approved Regulation on procedure of duty payment in phases of preliminary expertise and complete expertise through:

- verification of availability and validity of the document confirming duty payment.

If it lacks or is not submitted within established time application will be considered withdrawn, the applicant will be notified of it in the written form.

Missing periods will not be renewed in case of

- verification of correctness of properties mentioned in the payment documents.

If error is found out, applicant is sent a request with offer to make a payment in compliance with mentioned properties

- verification of payment amount

If insufficiency of amount, established by Regulation on Duties for application submission is found out, applicant is sent relative request with offer to pay missing amount.

If insufficiency of amount established by Regulation on Duties for making expertise on all classes mentioned in application is found out, applicant is sent relative request with offer to pay missing amount. If Payment document confirming relative addition payment is not submitted, expertise will be made on the first classes mentioned in the application, in compliance with the amount of paid duty, if applicant did not make a request to change classification towards its decrease

- verification of terms of duty payment.

In case of duty payment, issue of protection document after 2 month period (but not later than 6 months), is offered to be paid by applicant as additional duty (in compliance with par. 17 of the Regulation on Duty Payment). Paper work on the application will be suspended until additional duty is not paid.

## 5. Changes, addenda, specifications and corrections

Corrections which do not change the application in essence, may be made in the application documents within 2 months from the date of its submission according to the written request of the applicant, without duty payment. After expiry of this period, introduction of the similar changes will be paid with relative duty.

Changes which do not influence on the application in essence are the following:

- change of name and/or address of applicant in any phase of expertise, if applicant remains the same;
- change of applied or registered indication, not influencing on its general perception (visual or phonetic image) and not able to cause infringement of rights of applicants with later date of submission;
- change of list of goods inside applied classes if they are homegenous.

If change of name or address of applicant is result of conclusion of contract, the name of the previous applicant, name of the new applicant are mentioned in the petition, as well as fact of their mutual consent is certified. Introduction of similar changes is accompanied by duty payment ofr petition on conceding a right for issue of protection document. Significant change of applied indication, or extension of list of goods and increase of classes of ICGS, as well as increase of homogenous goods inside classs mentioned in the primary documents of the application are considered by commission of experts as significant changes. At that applicant is offered to make his/her own application.

5.1. Application division at the instance of applicant may take place in any phase of its consideration and appeal up to taking final decision by distribution of goods and/or services listed in the primary application. Such applications preserve date of submission of the primary application, as well as number with additional code.

5.2. Registration division at the instance of applicant can be made through distribution between registratons of goods, in relation to which the trade mark was

registered. It can also take place in case of appeal by the third persons on acknowledgement of registration invalid re part of goods and/or services. Registration division is recorded in GosRegister. Registration number acquires code.

5.3. Transformation of application for registration of collective mark into application for registration of trade mark may take place at the instance of one of those who submitted application and being members of association, with consent of other applicants in any phase of expertise up to phase of taking final decision.

application for registration of trade mark may be converted into application for registration of collective mark in any phase of expertise up to phase of decision by submission of petition on behalf of applicant and of Regulations envisaged by Art. 7 of the Law.

## 6. Extension of period for reply submission

Extension of period for reply submission is made at the instance of applicant, submitted to KazPatent not later than the expiry date established for reply submission by this Regulation under condition of duty payment. Maximal extension for reply submission period is 6 months.

## 7. Renewal of missing periods

In compliance with Art.12 of the Law, renewal of missing periods can be made by petition of applicant, submitted not later than 2 months from the date of expiry of missing period with mentioning of reasons, why this period was missed. If mentioned reasons are not considered convincing enough by commission of experts, it has a right for denial to renew missing periods. Applicant's petition shall contain document confirming payment of duty.

## 8. Application Withdrawal

Application can be withdrawn at the instance of applicant in any phase of expertise, not later than the date of registration, as well as on the basis of expertise decision that applicant violated all periods established by legislation for request reply. In regard to application withdrawn legal actions are not carried out. It is not taken into account when expertise of other applications take place.

application is considered withdrawn from the date of taking relative decision on withdrawal, it is sent to applicant within 10 days.

## 9. Extension of registration validity period

Trade mark registration validity period can be extended at the written request of the owner (under condition of relative duty payment), submitted to KazPatent not later than period of certificate validity expires. This period can be extended for not more than 6 months under condition of payment of relative duty.

Record on extension of trade mark registration validity period is made in the GosRegister and according to request of trade mark owner - to the certificate. Information on extension of registration validity period is published in the official booklet of the Patent agency.

## 10. Registration Annulment

trade mark registration can be annuled in connection with:

- suspension of its validity period;
- on the basis of decision issued by authorities (Appeal Counsel or court bodies);
- in case if registration is considered invalid in compliance with Art. 28 of the

Law;

- if legal entity is liquidated or practical activity of the legal person discontinues, if assignee lacks, by petition of the third persons;

- on the basis of application of the Trade Mark owner.

Registration is considered annuled from the date of introduction of information on annulment into Government Register of Trade Marks. Information on annulment of trade marks is published in the official booklet of KazPatent.

This Regulation becomes valid from the date of its official publication.