



КЫРГЫЗ РЕСПУБЛИКАСЫНЫН МАМЛЕКЕТИК ИНТЕЛЛЕКТУАЛДЫК МЕНЧИК КЫЗМАТЫ  
ГОСУДАРСТВЕННАЯ СЛУЖБА ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ КЫРГЫЗСКОЙ РЕСПУБЛИКИ  
STATE INTELLECTUAL PROPERTY SERVICE OF THE KYRGYZ REPUBLIC

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**Dr. Francis Gurry**  
**Director General**  
**World Intellectual Property**  
**Organization (WIPO)**  
spc.forum@wipo.int

**Dear Dr. Gurry,**

After studying the WIPO's Circular No 7998 of June 28, 2011 regarding the decision of the 16<sup>th</sup> session of the Standing Committee on the Law of Patents on the topics of Quality of Patents and Patents and Health as well as information collection on the national and regional practices, the State Intellectual Property Service of the Kyrgyz Republic (Kyrgyzpatent) communicates the following.

**Quality of Patents**

1. Possible technical mistakes in the title sheet.

In accordance with the provisions of the Patent Law of the Kyrgyz Republic after examination an applicant shall be given a decision, containing such information as: applicant, author, patent owner, claim, registration and reference number of the application, prior art, IPC. In case of possible technical mistakes in this information, it may be corrected by the applicant or author before a patent issuing.

It is also possible to make amendments after the grant of the patent. According to the Article 28 of the above-mentioned Law, in the case of disclosure of evident and technical mistakes by the patent owner's request, Kyrgyzpatent shall insert appropriate correction into the granted patent.

2. Examination of invention and use of reports of international searching authorities.

Kyrgyzpatent carries out a formal and preliminary examination of application for invention.

By petition of the applicant to be filed with Kyrgyzpatent simultaneously with an application or during 30 months from the filing date, consideration of the application may be implemented with substantive examination.

The formal examination checks a complex of necessary documents, their correctness and compliance of applied subject matter with protected subject matters.

During the preliminary examination Kyrgyzpatent checks observance of the following requirements: patentability of presented materials of the application, withdrawn applications with earlier priority, funds of issued titles of protection of the Kyrgyz Republic, as well as by published Eurasian applications and patents. It also determines a priority of the invention and checks its uniformity.

During 18 months from the filing date of an application Kyrgyzpatent carries out the substantive examination: compliance to industrial applicability, novelty and inventive level. The examination shall be based on the report of international searching authority, namely of the Federal Institute of Industrial Property of the Russian Federation or the European Patent Office.

The procedure of examination may include a request to the applicant to provide any missing or/and corrected materials as well as proposals of experts to improve the claim. Additional materials presented by applicant should not change the essence of claimed technical solution.

### 3. Publication

After 18 months from the filing date of an application or a priority date, Kyrgyzpatent publishes data on application in the Official Newsletter excluding withdrawn or refused applications.

The Official Bulletin "Intellectual Property" after decision to grant a patent, publishes data about author, applicant, patent owner, number of registration of applied materials and patent and invention claim.

### 4. Opportunity to file opposition by third parties. Appellation.

Any patent during its validity term may be recognized as invalid fully or partially by opposition of third parties in the following cases: a) contradiction to patentability, novelty, inventive step, industrial applicability; b) presence in the invention claim of inventive features lacking in the initial materials of application; c) incorrect reference to author or owner of the patent. A person, filing his/her opposition has to motivate it and provide a document on fee payment.

The opposition against grant of the patent shall be considered by the Board of Appeals of Kyrgyzpatent with participation of patent owner and opposition person.

In case of negative reaction to the Board of Appeals's decision any party may file a suit.

Thus the Patent Law of the Kyrgyz Republic provides a possibility to correct technical mistakes before and after grant of the title of protection, to use reports of international searching authorities during examination processes well as to file oppositions by third parties against patent granting in case of incompliance with conditions of patentability or unauthorized patent obtaining.

The possibility to correct materials of application in the course of examination and the possibility to file oppositions by third parties in the Board of Appells of Kyrgyzpatent or courts of the Kyrgyz Republic improve a quality control of issued patents.

### **Patents and Health**

The Patent Law of the Kyrgyz Republic provides the following regulations:

- Possibility to renew a patent term of validity for invention, related to pharmaceuticals up to 25 years; for other inventions the maximum term is 20 years;
- Possibility to conduct a scientific research or experiment with a subject matter of industrial property; it shall not be considered as infringement of exclusive right of a patent owner;
- Possibility to issue a compulsory license by the Government of the Kyrgyz Republic at extraordinary situation or for national safety with payment of a compensation to a patent owner;
- Possibility for any person interested to use a protected IP subject matter in the case of a patent owner refusal to conclude a license agreement with this person.

The Kyrgyz Republic is a member of the World Trade Organization (WTO) since December 1998 and observes the norms of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to provide minimum standards of IPRs protection in all fields of technology, including:

- Products (medicines);
- Methods (receipt of medicines).

Taking into consideration the importance of mentioned question and supporting the idea of limitation of patent monopoly for medical products, we believe to be possible the variant of excluding from the Patent Law the norm regarding a prolongation of validity term for pharmaceutical patents for 5 years. Obviously there is a necessity of detailed study of this question and concordance with all interested parties.

**Sincerely yours,**

**A.Kalmamatov**  
**Director**

