

## **Topic 11. Patent system of the Republic of Kazakhstan. Sources of patent documentation. Patent application**

At this lecture we are going to discuss  
What is an intellectual property (IP)?  
Why does IP matter?  
Different types and categories of IP  
What is an invention in the Republic of Kazakhstan?  
How to patent an idea?  
How to get a patent for an invention (utility model)?  
Who can apply and in what ways can they apply?

Intellectual property (IP) refers to creations of the mind – everything from works of art to inventions, computer programs to trademarks and other commercial signs. IP covers a vast range of activities, and plays an important role in both cultural and economic life. This importance is recognized by various laws which protect intellectual property rights.

The progress and well-being of humanity depend on our capacity to come up with new ideas and creations. Technological progress requires the development and application of new inventions, while a vibrant culture will constantly seek new ways to express itself.

Intellectual property rights are also vital. Inventors, artists, scientists and businesses put a lot of time, money, energy and thought into developing their innovations and creations. To encourage them to do that, they need the chance to make a fair return on their investment. That means giving them rights to protect their intellectual property.

Essentially, intellectual property rights such as copyright, patents and trademarks can be viewed like any other property right. They allow the creators or owners of IP to benefit from their work or from their investment in a creation by giving them control over how their property is used. IP rights have long been recognized within various legal systems. For example, patents to protect inventions were granted in Venice as far back as the fifteenth century.

Different types and categories of IP.

IP is often divided into two main categories: Industrial property includes patents for inventions, industrial designs, trademarks and geographical indications. Copyright and related rights cover literary, artistic and scientific works, including performances and broadcasts.

Patents were one of the first types of intellectual property to be recognized in modern legal systems. Today, patented inventions pervade every aspect of life, from electric lighting (patents held by Edison and Swan) to the iPhone (patents held by Apple). By patenting an invention, the patent owner gets exclusive rights over it, meaning that he or she can stop anyone from using, making or selling the invention without permission.

What can be patented?

An invention can be defined as a product or process that offers a new way of doing something, or a new technical solution to a problem.

Trademarks.

Trademarks have been around for many years. In ancient times, artisans would sign or mark their work to prove they had made it. Gradually, laws evolved to protect such marks. These days, trademarks are essential to business. They take many forms and identify a huge array of goods and services. Enterprises spend enormous amounts of time and money developing their brands and trademarks. Legal protection allows the owner of a mark to control who uses it. This means that enterprises can develop and promote their goods and services without having their reputation undermined by counterfeiters, and consumers can rely on trademarks being genuine. A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises.

Copyright and related rights

Copyright, or authors' right, is a legal term used to describe the rights that creators have in their literary, artistic and scientific works. Copyright covers an enormous range of works – not just books, music, paintings, sculpture and films, but also computer programs, databases, advertisements, maps and technical drawings, among other things. There are also rights related to the copyright of the creators that protect the interests of those closely associated with copyrighted works, including performers, broadcasters and producers of sound recordings.

Industrial design rights cover those elements of a product that are aesthetic or ornamental – the way it looks and feels. Industrial designs are applied to a wide variety of industrial products and handmade goods: cars, telephones, computers, packaging and containers, technical and medical instruments, watches, jewelry, electrical appliances, textile designs, and many other types of goods.

What designs can be protected?

Industrial design law only protects those aspects of a product that are ornamental; its technical features may be protected by patent, if they meet the requirements for patent protection. A design may consist of three-dimensional features, such as the shape or surface of an article, or twodimensional features such as patterns, lines or color.

What is invention in the Republic of Kazakhstan?

In accordance with paragraph 2 of Article 6 of the Patent Law of the Republic of Kazakhstan [1], technical solutions in any field related to a product (device, substance, strain of a microorganism, culture of plant or animal cells), a method (the process of performing actions on a material object with the help of material means), as well as the use of known products or a method for a new purpose or a new product for a specific purpose are protected as an **invention**.

How to patent an idea?

The list of objects of intellectual property rights is given in Article 961 of the Civil Code of the Republic of Kazakhstan (hereinafter - the Civil Code of the Republic of Kazakhstan). The conditions of legal protection of inventions and utility models are defined by Article 991 of the Civil Code of the Republic of Kazakhstan. An invention that is granted legal protection is recognized as a technical solution

that is new, has an inventive level and is industrially applicable. A utility model that is granted legal protection is recognized as a technical solution that is new and industrially applicable.

How to get a patent for an invention (utility model)?

To obtain a patent for an invention or utility model, it is necessary to file an application and submit it to the National Institute of Intellectual Property of the Ministry of Justice of the Republic of Kazakhstan [2]. According to the application, an examination is carried out in accordance with the established procedure, according to the results of which a decision is made to grant a patent or to refuse to grant it. When making a decision, the provisions of Articles 6 and 7 of the Patent Law of the Republic of Kazakhstan are taken into account.

Who can apply?

The application is submitted by the applicant or his representative.

1. The applicant is a person who has the right to a security document (the author of the invention (utility model), a team of authors or his (their) legal successor, employer (paragraph 1 of Article 10 and paragraph 1 of Article 16 of the Patent Law of the Republic of Kazakhstan).

2. The applicant's representative is a patent attorney or other representative acting on the basis of a power of attorney issued in accordance with the requirements of Article 167 of the Civil Code of the Republic of Kazakhstan [3-5].

The rights to an invention are protected by a patent, which is issued based on the results of an examination conducted in accordance with the Patent Law of the Republic of Kazakhstan. A patent for an invention is issued after a formal examination and substantive examination of the application.

In what ways can we apply?

1. Send by mail to the address: 010000, Republic of Kazakhstan, Nur-Sultan city, Mangilik El Avenue, building 57A, non-residential premises 8.

2. Transfer directly through the office of the National Institute of Intellectual Property to the above address.

3. Send to the following email address: kazpatent@kazpatent.kz .

4. Use the electronic application submission service using an electronic digital signature:

a) through the NIIS website [www.kazpatent.kz](http://www.kazpatent.kz) Information about submitting an application electronically through the NIIS website can be found on the website in the section "Electronic application submission".

b) Through the portal of the electronic government of the Republic of Kazakhstan - [www.egov.kz](http://www.egov.kz) .

The patent for the invention is valid for twenty years from the date of filing the application.

Thus, as a result of this lecture you got the following learning outcomes: you are able to

- define what an Intellectual property is;
- explain why does IP matter and its rights;

- identify different types of IP;
- explain the invention patenting system of the Republic of Kazakhstan;
- define the process of patenting;
- list the main steps involved in filing a patent application.

### References

1. Patent Law of the Republic of Kazakhstan. The Law of the Republic of Kazakhstan of 16 July 1999 No. 427. (Unofficial translation) <https://adilet.zan.kz/eng/docs/Z990000427>
2. National Institute of Intellectual Property <https://www.kazpatent.kz/en>
3. State Register of Industrial Property Objects of The Republic of Kazakhstan <https://gosreestr.kazpatent.kz/>
4. On Trademarks, Service Marks and Appellation of Origin Law of the Republic of Kazakhstan of July 26, 1999 No. 456. Unofficial translation <https://adilet.zan.kz/eng/docs/Z990000456>
5. ON COPYRIGHT AND THE RELATED RIGHTS. The Law of the Republic of Kazakhstan dated 10 June, 1996 No 6. Unofficial translation <https://adilet.zan.kz/eng/docs/Z960000006>