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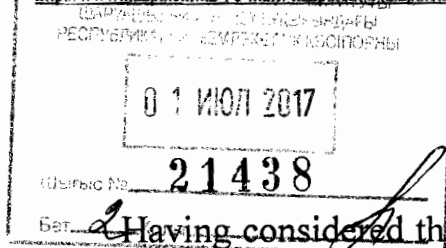
КАЗАКСТАН РЕСПУБЛИКАСЫ
ӘДІЛЕТ МИНИСТРЛІГІНІҢ
"ҰЛТТЫҚ ЗИЯТКЕРЛІК МЕНШІК
ИНСТИТУТЫ"
ШАРУАШЫЛЫҚ ЖҮРГІЗУ
ҚҰҚЫҒЫНДАҒЫ РЕСПУБЛИКАЛЫҚ
МЕМЛЕКЕТТІК КӘСІПОРНЫ



РЕСПУБЛИКАНСКОЕ ГОСУДАРСТВЕННОЕ
ПРЕДПРИЯТИЕ НА ПРАВЕ
ХОЗЯЙСТВЕННОГО ВЕДЕНИЯ
«НАЦИОНАЛЬНЫЙ ИНСТИТУТ
ИНТЕЛЛЕКТУАЛЬНОЙ
СОБСТВЕННОСТИ»
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Бат. 2 Having considered the materials sent to the 37th session of the Standing Committee, we inform the following.

Concerning positions № 1 and №2 "the meaning of the name of the country"

In the national legislation on the registration of trademarks, service marks, there are no provisions for the protection of the name of the country. The name of the country is one of the types of indications of a geographical object. According to the national legislation, such instructions are refused registration because of the lack of distinctive ability and description of the place of the origin of goods.

Regarding positions 3 "denial of registration, if the mark is deemed to be misleading, fraudulent or false".

According to subparagraph 1) of point 3 of article 6 of the Law of the Republic of Kazakhstan "On trademarks, service marks and appellations of origin of goods dated July 26, 1999 No. 456-1" (hereinafter-Law), the registration as trademarks or their elements is not allowed:

If they are false or capable of misleading about the product or its manufacturer, including the names of geographical objects, capable of misleading about the place of the production of goods.

The existing practice of examination indicates that the use of a geographical indication in the sign is perceived by the examination as a place of indication of the origin of goods or capable of misleading about the place of production of the goods or capable of misleading the consumer about the location of the applicant.

Regarding position №4 "taking into account other elements"

If in the designation for the registration of a trademark there are other elements other than the name of the country, it can be registered provided that the sign has a distinctive ability.

Regarding position №5 "recognition of registration as invalid and objection"

In the Republic of Kazakhstan, the legislation provides procedures for the submission of objections to decisions on refusal / partial refusal to register a trademark and against the effect of registration on absolute grounds.

According to paragraphs 2 and 6 of Article 12 of the Law, the applicant is entitled to submit a reasoned objection within a period of three months from

the date of sending him a preliminary opinion of the full examination, upon the consideration of which the expert organization shall issue a final report within three months from the date of receipt of the objection.

In case of disagreement with the conclusion of the examination made in accordance with paragraph 2 of this article, the applicant may submit an objection to the expert examination within three months from the date of his referral to the authorized body. The appeal must be considered by the Board of Appeal within four months from the date of its receipt.

According to Article 12, registration of a trademark may be challenged and invalidated in whole or in part during the whole period of validity if it was carried out in violation of the requirements established by Articles 6 and 7, with the exception of subparagraphs 1) to 3) of paragraph 1 of Article 7 of this Law or within five years from the date of registration of the trademark, if it was carried out in violation of the requirements established by subparagraphs 1) to 3) of paragraph 1 of Article 7 of this Law.

Any interested person may submit an objection to registration of a trademark to the authorized body on the grounds specified in paragraph 1 of this article.

In accordance with paragraph 2 of Article 24, registration of a trademark is recognized as invalid in whole or in part by the decision of the appeal board or court on the grounds specified in paragraph 1 of Article 23 of this Law.

**First Deputy Director of the
National Institute of Intellectual Property**

 **K. Batayeva**