

**LAW
OF THE REPUBLIC OF TAJIKISTAN
«ON GEOGRAPHICAL INDICATIONS»**

This Law shall govern relations arising in connection with the legal protection and use in the Republic of Tajikistan of “appellation of origin” and “indication of source” referred to by a general term of a geographical indication.

**CHAPTER 1.
GENERAL PROVISIONS**

Article 1. Basic terms

The terms used in this Law shall have the following meaning:

a geographical object – shall mean a territory with officially defined borders, for example, a country, a region as a part of a country, a settlement, a locality;

an application– shall mean a set of documents necessary for registration and for acquiring the right to use an appellation an appellation of origin or for acquiring the right to use an appellation of origin already registered;

a competent authority – shall mean a state authority empowered by the Government of the Republic of Tajikistan to establish borders of the geographical object where the good is produced, the specific quality and features of which are essentially or exclusively defined by natural conditions specific to a given geographical object or other factors or by a combination of natural conditions and these factors, with which some of the characteristics of the good are connected, and also to certify that the applicant is located within a given geographical object.

Article 2. Legislation of the Republic of Tajikistan on Geographical Indications

The legislation of the Republic of Tajikistan on geographical indications shall be based on the Constitution of the Republic of Tajikistan and shall consist of the Civil Code of the Republic of Tajikistan, this Law and other legislative acts of the Republic of Tajikistan, as well as international legal acts recognized by the Republic of Tajikistan.

Article 3. Authorized State body

Implementation of the functions in the field of the legal protection of topologies of integrated circuits stipulated by this Law shall be entrusted to the Authorized State

Body (hereinafter the “Patent Office”).

In cases stipulated by this Law, the Patent Office, in accordance with its competence, shall issue regulatory legal acts on the application of this Law.

An Appeal Board shall be set up, attached to the Patent Office, and shall be a mandatory primary body for consideration of the issues attributed to its competence by this Law. The Appeal Board shall carry out its authorized functions on the basis of the legislation of the Republic of Tajikistan, the “Appeal Board Statute” approved by the head of the Patent Office and “Regulations on Filing and Consideration of the Appeals by the Appeal Board”.

Article 4. Representation

Natural persons permanently residing outside the Republic of Tajikistan, or foreign legal entities or their representatives shall deal with the Patent Office through patent attorneys authorized by a power of attorney and who obtained the right to perform as a patent attorney according to the legislation of the Republic of Tajikistan.

CHAPTER 2.

GEOGRAPHICAL INDICATIONS AND THEIR LEGAL PROTECTION

Article 5. Appellation of origin

1. An appellation of origin shall be a designation which is or contains a contemporary or historical name of a country, a settlement, a location or other geographical object (hereinafter “geographical object”) or a derivative from such designation and which has become known as a result of its use in respect of a good the specific quality and features of which are essentially or exclusively defined by natural conditions and (or) human factors specific to a given geographical object.
2. A designation shall not be recognized as an appellation of origin if it represents or includes the name of a geographical object, but is commonly used in the Republic of Tajikistan as a designation for a certain type of a good which is not associated with the place of its production.

Article 6. Indication of source

1. An indication of source – is a designation directly or indirectly indicating the true place of origin or of manufacture of a good.
2. An indication of source may be represented in the form of a verbal designation, containing a name of a geographical object, or as a figurative representation.

Article 7. Origination of legal protection of an appellation of origin

1. Legal protection of an appellation of origin in the Republic of Tajikistan shall stem from its state registration in accordance with the procedure prescribed by this Law or by virtue of international agreements recognized by the Republic of Tajikistan.

2. An appellation of origin may be registered jointly by one or more legal entities or natural persons. A person who has registered an appellation of origin shall be entitled to use the same if goods produced by such person meet the requirements set out in part 1 of Article 5 of this Law.

The right to use the same appellation of origin, if duly registered, may be granted to any legal entity or natural person located in the same geographical object and producing goods with the same basic properties.

3. The registration of an appellation of origin shall be valid indefinitely.

Article 8. Origination of legal protection of indication of source

1. Legal protection of an indication of source shall stem from the use of the indication of source.

Legal protection of an indication of source shall consist in non-admission of the use of deceptive (false) indications of source and also of (such) indications that are capable of confusing consumers in respect of the true place of origin of the good.

2. Indication of source shall not be subject to the State registration

CHAPTER 3.

REGISTRATION AND GRANT OF THE RIGHT TO USE AN APPELLATION OF ORIGIN

Article 9. An application for registration and grant of the right to use an appellation of origin

1. An application for the registration of and grant of the right to use an appellation of origin or an application for the grant of the right to use an appellation of origin already registered (hereinafter, “application”) shall be filed by an natural person(s) and/or legal entity (ies) (hereinafter, the applicant) with the Patent Office either independently or through a patent attorney in accordance with Article 4 of this Law.

2. An application shall relate to a single appellation of origin.

3. An application shall contain:

a statement requesting the registration of and grant of the right to use an appellation of origin or the grant of the right to use an appellation of origin already registered, naming the applicant(s) and its/his (their) location(s) or domicile(s).

the designation applied for;

an indication of goods for which the registration of and grant of the right to use the appellation of origin or the grant of the right to use the appellation of origin already registered is sought;

an indication of the place of production of the good (borders of the geographical object);

a description of the special properties of the good.

An application shall be filed in the official language.

An application shall be signed by the applicant or, if filed through a patent attorney, by the applicant or the patent attorney.

In the event that a geographical object, the name of which is applied for as an appellation of origin, is situated in the territory of the Republic of Tajikistan an application shall be accompanied by a statement issued by a competent authority and serving to confirm that the applicant produces goods the special properties of which are determined by the natural conditions and(or) human factors specific to such geographical object;

In the event that a geographical object, the name of which is applied for as an appellation of origin, is situated outside the territory of the Republic of Tajikistan an application shall be accompanied by a document certifying the applicant's right in the appellation of origin applied for in the country of origin of the good;

An application shall be accompanied by a document evidencing payment of the obligatory payment for filing in the established amount;

The documents accompanying an application shall be filed in the official or another language. Where such documents are filed in another language, their translation into the official language shall be enclosed. The translation into the official language may be submitted by the applicant not later than two months after the date when the Patent Office notified him of the need to comply with this requirement.

5. The date of filing of an application with the Patent Office shall be the date of receipt of the documents provided for by Paragraph 3 of this Article, or, where the said documents were filed other than simultaneously, the date of receipt of the last of the documents submitted.

6. The requirements for application documents shall be established by the Patent Office.

Article 10. Examination of an application

1. The examination of an application shall be conducted by the Patent Office and shall comprise a formal examination and an examination of the designation applied for.

2. While an application is being examined and while a decision in respect thereof is pending, the applicant shall be entitled to supplement, correct or amend the material attached to the application.

If the supplementary materials substantially alter the application, such materials shall not be accepted for consideration and may be arranged by the applicant as a separate application.

4. During the examination the Patent Office shall be entitled to request from the applicant the supplementary materials the absence of which would make the examination impossible.

The additional materials shall be filed within two months of the day on which the request is received. At the request of the applicant, the Patent Office may extend this period, provided the request has been received prior to the expiry of the aforementioned period. If the applicant violated the established term or did not answer the request, the application shall be considered to have been withdrawn

4. A formal examination of an application shall be carried out within two months from the date of its filing with the Patent Office.

During the course of the formal examination, the presence of the necessary documents and their conformity with the established requirements shall be checked. Depending on the findings of the formal examination, a decision shall be made either to accept it for further examination or to deny its acceptance.

Simultaneously with notification of the positive outcome of the formal examination, the applicant shall be informed of the filing date established pursuant to Paragraph 5 of Article 9 of this Law.

A justified notification of refusal to accept the application for consideration shall be sent to the applicant.

5. The designation applied for under an application which has been accepted for examination shall be checked for compliance with the requirements set out in Article 5 of this Law.

During the examination of the designation applied for, the legitimacy of indicating the place of origin (production) of a good within the territory of the Republic of Tajikistan shall also be checked.

Pending a decision upon the findings of an examination of a designation applied for, the applicant may be notified of the results of a check performed to verify the compliance of such designation to the requirements set out in Article 5 of this Law along with an invitation to submit its/his arguments regarding the grounds of such notification. The applicant's arguments shall be taken into account in decision-making based on the findings of the examination of the designation applied for, provided that the same are submitted within six months of the date of giving such notice.

6. Following the examination, the Patent Office shall make a decisions to register the appellation of origin and to grant the right to use it, or to refuse to register the

appellation of origin and not to grant the right to use it; or to provide the right to use the appellation of origin already registered; or to refuse to grant the right to use the appellation of origin already registered.

7. An applicant may withdraw an application at any time during its examination before recodal in the State register of appellations of goods of the Republic of Tajikistan (hereinafter, "Register") of the information relating to the registration of and grant of the right to use the appellation of origin.

Article 11. Appeal against the decision on an application and reinstatement of missed terms

1. In the event of disagreement with the decision taken on the results of a formal examination, with the refusal to accept the application for consideration, or with the decision passed on the results of an examination of the designation applied for, or with the decision to recognize an application as having been withdrawn, the applicant may lodge an objection with the Appeal Board within three months after the date of receipt of the corresponding decision.

2. The time periods provided for by paragraph 3 of Article 10 of this Law and missed by an applicant, may be restored by the Patent Office on the basis of an appropriate petition of the applicant, which shall be filed not more than two months after the date of their expiry, provided that the reasons are confirmed to have been valid and that the respective fee is paid.

Such petition shall be filed with the Patent Office simultaneously with the materials requested by the examiner or with a request for extending the time period prescribed for its submission, or simultaneously with an objection filed with the Appeal Board.

Article 12. Registration of an appellation of origin and issuance of a certificate of the right to use an appellation of origin

1. On the basis of the decision of examination the Patent Office shall register an appellation of origin in the Register. The appellation of origin, the indication and description of the special properties of the good in respect of which the appellation of origin has been registered, the information related to the registration and grant of the right to use the appellation of origin, to the extension of the term of validity, and the subsequent changes in such information shall be entered in the Register.

2. Issuance of a certificate for the right to use an appellation of origin (hereinafter "certificate") and recordal of the information about a certificate holder in the Register shall be made by the Patent Office within one month from the date of receipt of a document proving the payment of a fee.

Unless a document proving the payment of a fee for the issuance of a certificate of the right to use an appellation of origin is duly submitted, such certificate shall not be issued and the information about the certificate holder shall not be recorded in

the Register.

3. The form of a certificate and the content of the information contained therein shall be determined by the Patent Office.

Article 13. Period of validity of a certificate

1. A certificate shall be valid for a period of 10 years from the date on which the application is filed with the Patent Office.

2. The term of validity of a certificate may be extended at the request of its holder and subject to the submission by the certificate holder of a statement issued by a competent authority and confirming that the holder of the certificate produces goods featuring those properties which are stated in the Register within the borders of the geographical object concerned.

In respect of an appellation of origin which is a name of a geographical object located outside the Republic of Tajikistan, instead of the said statement, a certificate holder shall submit a document confirming the latter's right to use the appellation of origin in the country of origin of the good as of the date of filing a request for extension of the validity term of the certificate.

A request for extension shall be filed during the last year of the validity term of a certificate.

The validity term of a certificate shall be extended each time for ten years.

At the request of a certificate holder, a six month period for submitting a request for extension may be granted thereto upon the expiry of the validity term of a certificate subject to payment of an additional fee.

3. An entry concerning the extension of the validity term of a certificate shall be recorded by the Patent Office in the Register and in the certificate.

Article 14. Entry of changes in the Register and on the Certificate

A certificate holder shall inform the Patent Office of a change in his name, family name, first name and patronymic, as well as of changes relating to the registration of and grant of the right to use an appellation of origin.

Recodal of changes shall be entered in the Register and in a certificate subject to payment of the prescribed fee.

The Patent Office shall enter changes in the Register and in the certificate in order to correct obvious and technical mistakes.

Article 15. Publication of the information about registration and grant of the right to use an appellation of origin

Information pertaining to the registration of and grant of the right to use the appellation of origin recorded in the Register pursuant to Articles 12 and 14 of this

Law, except for the information which describes any special properties of the good, shall be published by the Patent Office in its Official Bulletin forthwith after its recodal in the Register.

Article 16. Registration of an appellation of origin in foreign countries

1. Legal entities and natural persons of the Republic of Tajikistan shall have the right to register an appellation of origin in foreign countries.
2. An application for registration of an appellation of origin in foreign countries shall be filed following the registration and acquisition of the right to use the appellation of origin in the Republic of Tajikistan.

CHAPTER 4 . USE OF GEOGRAPHICAL INDICATIONS

Article 17. Use of geographical indications

1. Use of an appellation of origin shall be understood to mean its use on goods, labels, packaging, in advertising, pamphlets, invoices, blank forms and other documentation connected with the commercial use of such goods.
2. The use of false indications of source and a registered appellation of origin by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as "sort", "kind," "type," "imitation," and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the consumer as regards the place of origin and special features of the good (illegal use of a geographical indication) shall not be allowed.

Goods, labels and packaging of these goods, on which an appellation of origin or a confusingly similar designation is used illegally, are counterfeits.

3. Any person who honestly used the name of a geographical object identical or similar to the registered appellation of origin for not less than six months prior to the date of its registration shall be retain the right to continue to use it during a two year period from the date of the said registration.
4. The assignment of the right to use a geographical indication and provision of the right to use it on the basis of a license shall not be admitted.

Article 18. Precautionary Marking

A certificate holder may affix next to the appellation of origin a precautionary marking in the form of the Latin letter R, either –by itself or in a circle, or a verbal designation indicating that the applied designation is an appellation of origin

registered in the Republic of Tajikistan.

CHAPTER 5.

TERMINATION OF LEGAL PROTECTION OF AN APPELLATION OF ORIGIN

Article 19. Challenge of the registration of an appellation of origin, issuance of a certificate and invalidation thereof

1. The grant of legal protection to an appellation of origin may be challenged and invalidated at any time during the entire length of its validity term, if effected in breach of any requirements set out in this Law.

Issuance of a certificate may be challenged and a certificate itself may be invalidated at any time during the entire length of its validity term if issued in breach of any requirements set out in this Law, or in connection with the invalidation of the grant of legal protection to the appellation of origin.

2. Any person, on such grounds as are provided for by paragraph 1 of this Article, may submit to the Appeals Board an appeal against the grant of legal protection to an appellation of origin and the issuance of a certificate.

3. The grant of legal protection to an appellation of origin and a certificate shall be invalidated on the basis of a decision by the Appeal Board as well as a court judgement that has taken legal effect.

Article 20. Termination of legal protection of an appellation of origin and validity of a certificate

1. The legal protection of an appellation of origin shall be terminated:

upon the disappearance of conditions characteristic to a particular geographical object and impossibility of producing a good with the features indicated in the Register.

upon the loss by foreign legal entities or natural persons of the right to such appellation of origin in the country of origin of the corresponding goods.

2. The certificate shall be terminated:

upon the loss by the good of its special properties indicated in the Register in respect of the given appellation of origin;

upon the termination of legal protection of the appellation of origin;

upon the liquidation of the legal entity – the holder of the certificate;

upon a voluntary refusal legalized by the Patent Office on the basis of a

request of the certificate holder to terminate the certificate.

3. Any person on the ground provided for by paragraphs 1 and subparagraph 2 and 3 of paragraph 2 of this Article, may file an appeal to the Appeal Board on termination of legal protection of an appellation of origin and validity of a certificate.

Any person on the ground set out in the subparagraph 4 of paragraph 2 of this Article may file a motion with the Patent Office to terminate validity of a certificate.

4. Legal protection of an appellation of origin and validity of a certificate shall be terminated pursuant to a decision by the Appeal Board, the Patent Office, as well as a court judgement, provided that such judgement has taken legal effect.

CHAPTER 6.

LIABILITY FOR INFRINGEMENT OF THE LEGISLATION ON GEOGRAPHICAL INDICATIONS

Article 21. Liability for infringement of the legislation on geographical indications

1. Such use of a geographical indication or similar designations as runs counter to the provisions of paragraph 2 of Article 17 of this Law shall entail civil, administrative, criminal liability in accordance with the legislation of the Republic of Tajikistan.

2. A person having the right to use an appellation of origin shall be entitled to demand the person unlawfully using that appellation or a confusingly similar designation:

to discontinue its use and compensate for related losses in accordance with civil legislation;

- to publish the relevant court judgement in order to restore the business reputation of the injured party;

to remove the unlawfully used appellation of origin or designation confusingly similar thereto from the counterfeited goods, labels, packaging, or to destroy the counterfeited goods, labels, packaging where it is not possible to remove from them an illegally used appellation of origin or a designation confusingly similar thereto.

3. The holder of a certificate for the right to use an appellation of origin in lieu of the demand to compensate for resulting losses shall have the right to demand the person unlawfully using the appellation of origin the payment of a monetary amount determined by the court.

4. A person affixing a precautionary marking regarding an appellation of origin

which has not been duly registered in the Republic of Tajikistan shall be liable pursuant to the procedure laid down by the legislation of the Republic of Tajikistan.

Article 22. Settlement of disputes connected with infringement of the legislation on geographical indications

Disputes arising in connection with the application of this Law, including disputes over unlawful use of the geographical indications shall be examined by courts within the limits of their jurisdiction in accordance with the procedure laid down by the legislation of the Republic of Tajikistan.

CHAPTER 7. CONCLUDING PROVISIONS

Article 23. Decisions of the Appeal Board

The rules for filing oppositions and requests with the Appeal Board and a procedure for their consideration shall be prescribed by the Patent Office.

Decisions of the Appeal Board made on oppositions and requests, filed in the order set forth in Articles 19, 20 of this Law shall be approved by the Head of the Patent Office and shall come into force from the date of their approval and may be appealed against in court in conformity with legislation of the Republic of Tajikistan.

Article 24. Obligatory payments and a procedural payment

1. For filing an application, registration and issuing a certificate, extension of the registration and reinstatement of missed terms as well as for all other legally significant acts connected with registration and extension of the term of validity of a certificate, obligatory payments shall be charged.
2. For carrying out examination, entering amendments and corrections in the documents of the application, publication of particulars of an appellation of origin, consideration of oppositions and requests by the Appeal Board, as well as for other acts connected with examination of the application the Patent Office shall charge a procedural payment.
3. Obligatory payments and a procedural payment shall be paid by the applicant, right holder, or, in agreement with them, by any legal entity or natural person.

Article 25. Rights of foreign legal entities and foreign natural persons

Foreign legal entities and natural persons shall enjoy those rights granted by this Law on a par with legal entities and natural persons of the Republic of Tajikistan by virtue of the international treaties to which the Republic of Tajikistan is a party

or on the basis of reciprocity.

The right to register appellations of origin in the Republic of Tajikistan shall be granted to legal entities and natural persons of countries granting the same rights to legal entities and natural persons of the Republic of Tajikistan.

Article 26. International treaties

Where an international treaty to which the Republic of Tajikistan is a party establishes rules that differ from those set out in this Law, the rules of such international treaty shall apply.

Article 27. Procedure for entry into force of this Law

This Law shall enter into force on the day of its official publication.