



INPI starts receiving and processing applications for position mark

The Brazilian Patent and Trademark Office (BPTO) began, as of mid-November, to have a specific form for the filing of position marks.

A position mark, according to the BPTO's Trademark Guidelines, is *"formed by the application of a sign in a unique and specific position of a given support, followed by a distinctive set capable of identifying products or services and distinguishing them from other identical or similar ones, provided that the application of the sign in the said position of the support can be dissociated from a technical or functional effect."* The example brought in the Trademark Guideline is a trademark positioned on the cable of a kettle, in a way that this is a distinctive sign and placed in a position that is not usually used for the application of trademarks.

Thus, the BPTO finalizes the work of putting into effect the necessary procedures for the registry of position marks in Brazil, fulfilling the strategic initiative 7 of the 2022 BPTO' Action Plan.

Brazilian PTO recognizes new Geographical Indications

The Brazilian Patent and Trademark Office (BPTO) recognized in November, through the publication on the BPTO's Official Gazettes No. 2704, No. 2705, and No. 2707, three new Geographical Indications, this time related, respectively, to wines from Vale do São Francisco; Espírito Santo peppercorns; and coffee from Garça region (Midwest of the State of São Paulo).

Some of the common factors that motivated the granting of the Geographical Indications by the BPTO were the relevance and tradition present in all cases, since the regions were already notorious for the trade of these products for decades. The BPTO also took into account the exportation of goods from these regions to other countries.

In the case of the black pepper from Espírito Santo and the wines from Vale do São Francisco, several studies contained in academic publications were included in the documentation that requested the Indication of Source. With this, it was possible to demonstrate the amount of research done in the regions, making them centers of wine and black pepper production.

//// Current affairs

How Intellectual Property can help the growth of startups

Intellectual Property, which already has a strategic weight in traditional-based businesses – as in the case of trademarks, facilitating communication with the consumer-market –, is today growing in importance in the so-called startups, companies focused on developing innovative solutions, often through technology.

According to the Technological Radar of the Brazilian PTO (INPI), of the 3,523 active startups, 1,971 companies (56%) have registered trademarks, while 203 companies (6%) have software registrations, 184 companies (5%) have patent applications, 36 companies (1%) have industrial design registrations, and 1,463 (41.5%) of the startups do not have any IP assets registered.

In this sense, Intellectual Property can even be a competitive differential, in as far as, at the same time, it values and protects the company's assets.

With the help of Intellectual Property, it becomes possible to protect intangible assets from undue use by third parties, whether through patents, industrial designs, trademarks, etc. Precisely because of this protection, the intangible asset becomes more valuable and, consequently, values the company, even being possible to monetize the exploitation of the intangible asset, for example selling or licensing it to third parties.

Partnerships and patent licensing foster innovation and development

During the COVID-19 pandemic emergency, voluntary licensing of intellectual property patents was used by the pharmaceutical industry in order to combine a financial return on the investments made in vaccine and drug development with the speed that the global public calamity demanded. As a result, vaccines were developed in record time, as one year after the virus was detected people were already receiving their first doses.



With this in perspective, although patents are generally guarantees of exclusivity so that the owner of a technology can exploit the market exclusively for a certain period, there is also the possibility that partnerships can be signed so that the technology can be replicated and reach more people at a lower cost. It is in this context that the pandemic highlighted the important role played by intellectual property in fostering scientific and technological development, while also not necessarily influencing the restriction of access to the developed products.

//// IP abroad

Industrial Property filings reach record levels worldwide in 2021

In the end of November, the World Intellectual Property Organization (WIPO) published its 2022 World Intellectual Property Indicators report and pointed out that the Industrial Property filings increased and reached record levels in 2021.

Regarding patent applications, there were a total of 3.4 million filings, representing a 3.6% increase over the applications filed in 2020. In 2021, there was also a 5.5% increase in trademark applications worldwide, resulting from a total of 18.1 million filings. The increase of trademark registrations has

coincided with a significant growth in business activity and venture capital operations as a result of the disorder associated with the COVID-19 pandemic. Industrial designs were not behind either, with a significant rise of 1.5 million applications, representing a 9.2% increase from 2020 to 2021. For more information about the statistics provided in the report, please access [here](#).



JPMorgan obtains US patent registration regarding the development of a digital wallet for crypto assets

On November 15, the United States Patent and Trademark Office (USPTO) granted to an American investment bank, J.P. Morgan Chase & Co, a patent regarding the development of a digital wallet for crypto assets.

At the moment, the bank already offers on its website a virtual wallet that allows the automation and the management of an infinite number of payments in real time, but these services are only available to companies and it does not involve the use of crypto assets.

The invention protected by the new patent encompasses new functionality in the digital wallet, which will offer a variety of financial services, including the transfer and storage of digital assets, payment processing by using crypto assets, and a virtual checking account system for customers.



STJ decision guarantees NGO the right to use the expression “Paraolímpico” for non-commercial purposes

The Superior Court of Justice (STJ), based on the decision of the Court of Justice of Rio de Janeiro (TJRJ), confirmed that Superar Institute, a Non-Profit Organization, has the right to use the expression “paraolímpico” (paralympic) in its activities, without commercial purposes.

Superar Institute has filed a lawsuit after receiving an extrajudicial notification from the Brazilian Olympic Committee (COB), the Organizing Committee of the Rio 2016 Olympic Games and the Brazilian Paralympic Committee requesting the abstention from using the expression “paraolímpico”, due to the alleged ownership of trademarks registrations composed of the word root “olímpico” before the Brazilian Patent and trademark Office (BPTO).

In defense, the Committees claimed that this trademark could only be used by third parties with their prior and express authorization.




However, for the STJ, the term “paraolímpico” would not be registered as a trademark, which is why it could be recognized as common domain.



Images: Shutterstock

Newsletter content produced
by TozziniFreire's IP practice.

**PARTNERS RESPONSIBLE
FOR THE CONTENT:**

-  **Marcela W. Ejnisman**
-  **Carla do Couto H. Battilana**
-  **Luiza Sato**

For further information, please visit:

tozzinifreire.com.br