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Building Patent Portfolios in Brazil: Protection, Strategy, and Value Creation

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The Brazilian patent system has distinctive features that require applicants to adopt a strategic approach from the earliest stages of technological developments. Under the Industrial Property Law (Law 9.279/1996), patents are recognized as transferable assets that may be commercially exploited, assigned, licensed and, in certain circumstances, used as collateral in financial transactions. Transforming these rights into assets that effectively generate economic value, however, depends on a solid understanding of the practices of the Brazilian Patent and Trademark Office (INPI – Instituto Nacional de Propriedade Industrial) and of the institutional environment in which the patent system operates.

In Brazil, patent examination follows standardized technical guidelines, including field‑specific guidance for areas such as chemistry, biotechnology, and computer‑implemented inventions. In practice, the way the subject matter is defined, the precision of the claims, and their alignment with the INPI's prevailing examination guidelines are decisive for securing patent protection.

Recent changes introduced by the INPI to its appeal procedures have significantly narrowed the room for maneuver available to applicants. Under the new system, applicants can no longer rely on making substantive amendments after their application is rejected, which makes a well‑defined strategy and close technical oversight during first‑instance examination all the more critical.

As a result, applicants need to build the broadest and most appropriate scope of protection at the patent‑drafting stage and then actively shape that scope during first‑instance examination. Without such a strategy, applications may be rejected or result in patents with unduly narrow claims, undermining both the robustness and the economic value of the applicant's patent portfolio.

Securing the patent grant is only the starting point. Once a patent is granted, effective post‑grant management becomes central to value creation. This includes maintaining the patent in force, monitoring the market for potential infringements, and taking steps to ensure effective judicial protection, as well as entering into licensing agreements and properly recording these transactions with the INPI. Together, these measures improve transparency and provide greater predictability regarding the scope, ownership, and enforceability of the patent.

It is precisely this combination of transparency and predictability that underpins the debate around IP Finance in Brazil. Although still at an early stage, the use of patents as collateral in financial transactions depends directly on the quality of the patent portfolio, the clarity regarding ownership, and the predictability of its economic exploitation. Recent institutional initiatives have sought to identify bottlenecks and propose ways to make intellectual property assets more "bankable" — that is, better suited for use within the credit system — by calling for greater standardization of information, minimum liquidity mechanisms, and closer integration between the industrial property and financial systems.

For this potential to be realized, users of the Brazilian patent system must be able to count on experienced advisers, and have a clear understanding of the system's specific features. A strategically structured patent portfolio — from filing through ongoing management — not only increases the likelihood of securing patent protection, but also expands the ability of patent rights to generate value in corporate transactions, technology agreements, and, in the future, financing structures backed by intellectual property. In short, a maturing patent system and more professional management of intangible assets can make a vital contribution to innovation and business growth in Brazil.

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