

Intellectual Property Newsletter: Brazilian PTO starts processing applications for position marks and more highlights

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Topics

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New European Patent System with Unitary Effect (UP)

A new unitary patent system ("European Patent with Unitary Effect", "UP-system" or simply "UP") will become effective in the European Union (EU) in June 2023. According to the new system, patents granted in Europe and included in the UP-system will be valid in the vast majority of countries belonging to the European Union, without the need for the current validation procedure, separately, for each country of interest.

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Brazilian PTO starts processing applications for position marks

The Brazilian Patent and Trademark Office ("Brazilian PTO") took another step towards protecting the so-called non-traditional marks, specifically in relation to position marks. The regulation on position marks was introduced by Ordinance No. 37/2021, but the Brazilian PTO only started processing applications for these marks last November.

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The Federal Supreme Court confirms the impossibility of extending the term of patents in Brazil

The judgment of the Direct Action of Unconstitutionality n°. 5,529 ("ADI No. 5529") by the Federal Supreme Court, which occurred in April 2021, was a relevant milestone in the old war of counting of patents term in Brazil. The sole paragraph of art. 40 of the Industrial Property Law (Law 9.279/96), which had its constitutionality challenged in the aforementioned ADI, guarantee to the holders of patents granted by the INPI a minimum term of ten years from the date of the grant, which meant that a considerable number of patents had protection that extended the general rule of 20 years from filing.

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