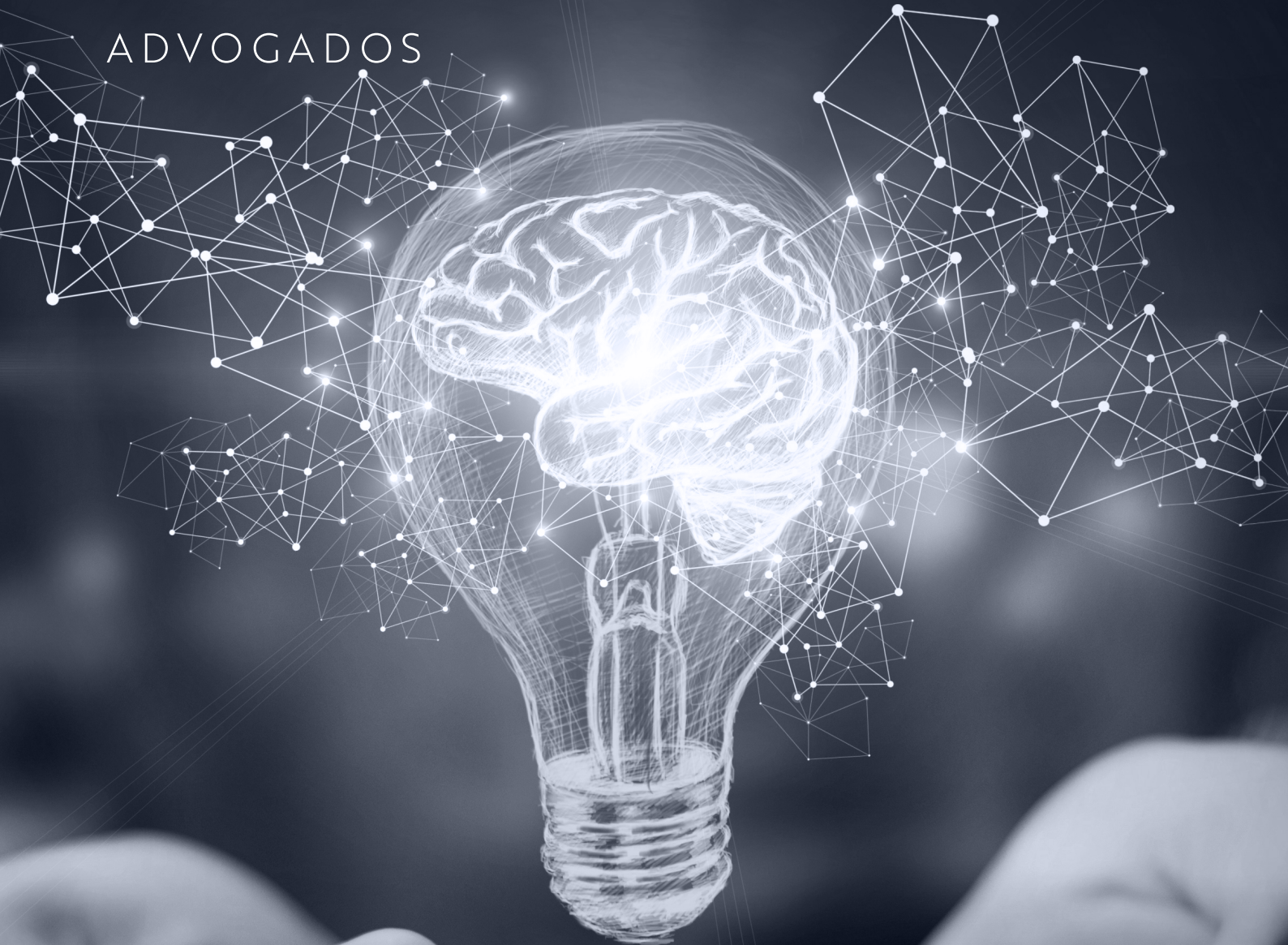


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INTELLECTUAL
PROPERTY.
NEWSLETTER

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01

Brazilian Context.

Artificial Intelligence is debated in the Executive and Legislative

Since the beginning of April, the regulation and the use of Artificial Intelligence (AI) have been discussed by the Brazilian Patent and Trademark Office (BPTO) and the House of Representatives' Culture Commission.

While the BPTO studies how to implement AI systems to assist in the examination of trademark, patent and industrial design applications, the Culture Commission analyzes the impacts of AI on intellectual property.

The BPTO is taking a more practical approach, and its goal is to develop a system capable of providing accurate results, which will, therefore, facilitate the examination of applications.

The House of Representatives, on the other hand, is concerned about the copyrights and intellectual property of works produced by AI. Furthermore, the possibility of considering AI as an author and, especially, as the holder of exclusive rights, has been discussed, following the example of foreign legislations.

Brazilian Ministry of Culture proposes regulation on streaming and changes in the Brazilian Copyright Law

The current secretary of Copyrights and Intellectual Rights at the Ministry of Culture (MinC), Marcos Alves de Souza, gave an interview in April showing interest in reviewing the remuneration on audiovisual streaming platforms, by means of a Bill of Law that would amend the provisions of the 1998 Copyright Law.

Due to the steady growth of streaming platforms within the last few years, discussions on this topic became more relevant. Thus, according to the Ministry of Culture, there has been a growing demand from creators, authors, and artists for adequate remuneration in the digital market.

In addition, the secretary intends to regulate copyrights arising from content produced by generative Artificial Intelligence, such as ChatGPT, in the area of text generation, or Deepfake in the area of visual arts, as the Ministry of Culture is concerned about the quick development of these technologies and the resulting impacts. The lack of regulation may create important gaps on the existing law and inflict losses on copyright owners.



Court Orders.

Court of Justice of São Paulo decides that the use of similar packaging does not constitute unfair competition

Court of Justice of São Paulo decides that the use of similar packaging does not constitute unfair competition. The 2nd Chamber of Business Law of the Court of Justice of São Paulo (TJSP) decided that the use of similar packaging is not unfair competition. The decision was made in view of a lawsuit filed by a peanuts product company, which accused another company of "free-riding" due to the similarity in the visual identity of the packages (trade dress). The trial court ruled in favor of plaintiff, but the decision was later reversed by the Court of Justice of São Paulo.

The decision made by the Court of Justice of São Paulo was based on expert evidence, which determined that, despite the predominance of the same colors on the packages, "there are differences in the way they are used, such as intensity and amount of space taken by the colors".

In addition, the judge highlighted that there is no exclusivity in the use of colors and that distinctiveness is an essential element to determine whether there is imitation of an image set of third parties. For these reasons, the Court of Justice of São Paulo concluded that there was no unfair competition.



03 IP Abroad.

“Apple Music” trademark application rejected by the U.S. Court of Appeals

Apple Inc. had its trademark application “Apple Music” rejected at the end of March in the United States of America, in view of a decision made by the U.S. Court of Appeals. The final judgment took into account the prior trademark rights belonging to an American trumpeter over the “Apple Jazz” trademark. What will happen to the name of the US company’s music streaming service remains to be seen.

The decision rejected Apple’s argument that the company would have prior rights over the trademark “Apple Corps Ltd.,” which identified the Beatles’ record label, currently owned by Apple.

Decision determining Goodyear to pay a fine of USD 64 million is reversed

In late March, the U.S. automobile tire manufacturer, Goodyear Tire & Rubber Company, succeeded in reversing a decision that had imposed on the company a fine of USD 64 million (sixty-four million dollars) – USD 2.8 million in compensatory damages and USD 61.2 million in punitive damages – for Goodyear’s willful and malicious behavior, i.e. for allegedly misappropriating trade secrets related to self-inflating tires owned by the Czech company Coda Development SRO.

According to the new decision rendered in Ohio, USA, most of the trade secrets that Coda accused Goodyear of misusing were not specific enough and were too vague to be legally protectable or were not necessarily new concepts. Coda’s attorneys informed that the company intends to appeal the decision.

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