


# Intellectual Property.

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# BRAZILIAN CONTEXT

## Partido Novo files ADPF at the Supreme Court to ensure legal certainty to the franchise market

The political party “Partido Novo” filed an Action Against the Violation of a Constitutional Fundamental Right (ADPF in Portuguese) before the Brazilian Federal Supreme Court (STF) aiming that the Courts of General Jurisdiction, rather than the Labor Courts, have authority to judge claims involving franchise agreements. The party argues that the Labor Courts have historically improperly recognized the employment relationship between franchisors and former franchisees, disrespecting the Franchise Law (Law No. 13,966/2019) and generating legal uncertainty and economic losses for the sector. The party asks that, on a preliminary basis,

all proceedings that address this issue be suspended, or that the Labor Courts refrain from issuing decisions until the STF expresses its opinion on the matter.

The Franchise Law, recently amended, ratifies the non-existence of an employment relationship in the relationship between franchisor and franchisee. Therefore, considering that legal certainty for the franchise market is essential, we agree that issues involving the franchise sector deserve a careful and specific analysis from the Courts of General Jurisdiction, already accustomed to judging matters of this nature.



# LEGAL CASES

## Court rules that trademarks “Seu Ticket” and “Meu Ticket” can peacefully coexist

The 4<sup>th</sup> Federal Court of Florianópolis denied the request filed by the owner of trademark “Seu Ticket” to cancel the registration of trademark “Meu Ticket.” The judge understood that the companies operate in different market segments, considering that one company operates with rentals of vending machines and sales booths and the other operates with rentals and maintenance of computer software, and for this reason both companies can exploit their trademarks normally, without causing confusion or undue association among consumers.

In addition, the judge understood that the word “ticket” is commonly used and has a low degree of distinctiveness and, consequently, does not have exclusive protection. An appeal can still be filed before the Federal Regional Court of the 4<sup>th</sup> Region (TRF4).

Considering that the companies operate in distinct market segments, with trademarks that are different when considered as a whole, we agree with the judge’s decision, which highlights the importance of the analysis of the trademark as a whole, as the mere similarity between the expressions

of the trademarks is not enough to create a conflict and justify the rejection or cancellation of a trademark. Therefore, it is always necessary to analyze the existing affinity between the market segments in which the companies operate, as well as the degree of distinctiveness that the trademark expression has.



# IP ABROAD

## Open AI strikes a deal with Financial Times to train ChatGPT and develop new AI systems

In late April, the British newspaper Financial Times struck a deal with Open AI to license the use of its journalistic content in the training and development of the ChatGPT chatbot and new artificial intelligence (AI) systems. As a result of the partnership, ChatGPT users will be able to see summaries, quotes, and links to Financial Times content in response to their questions. In addition, the Financial Times team has also acquired access to one of ChatGPT's modalities to benefit from the tool's creativity and productivity gains, but the CEO of Financial Times has already said that the newspaper remains committed to human journalism and that its articles will not be written by AI.

This agreement represents another strategic step for OpenAI, after facing several lawsuits for copyright infringement in the training of its chatbots. Open AI is seeking to enter into agreements with newspapers worldwide, as it has also done with the French newspaper Le Monde, the American Associated Press, and the Spanish Prisa Media. Entering into agreements of this nature is an excellent way to mitigate risks related to copyrights infringement, while also providing benefits such as expanding the reach of the articles, recognizing and enhancing the credibility of the parties involved and improving the understanding of the topics of interest to ChatGPT readers and users.



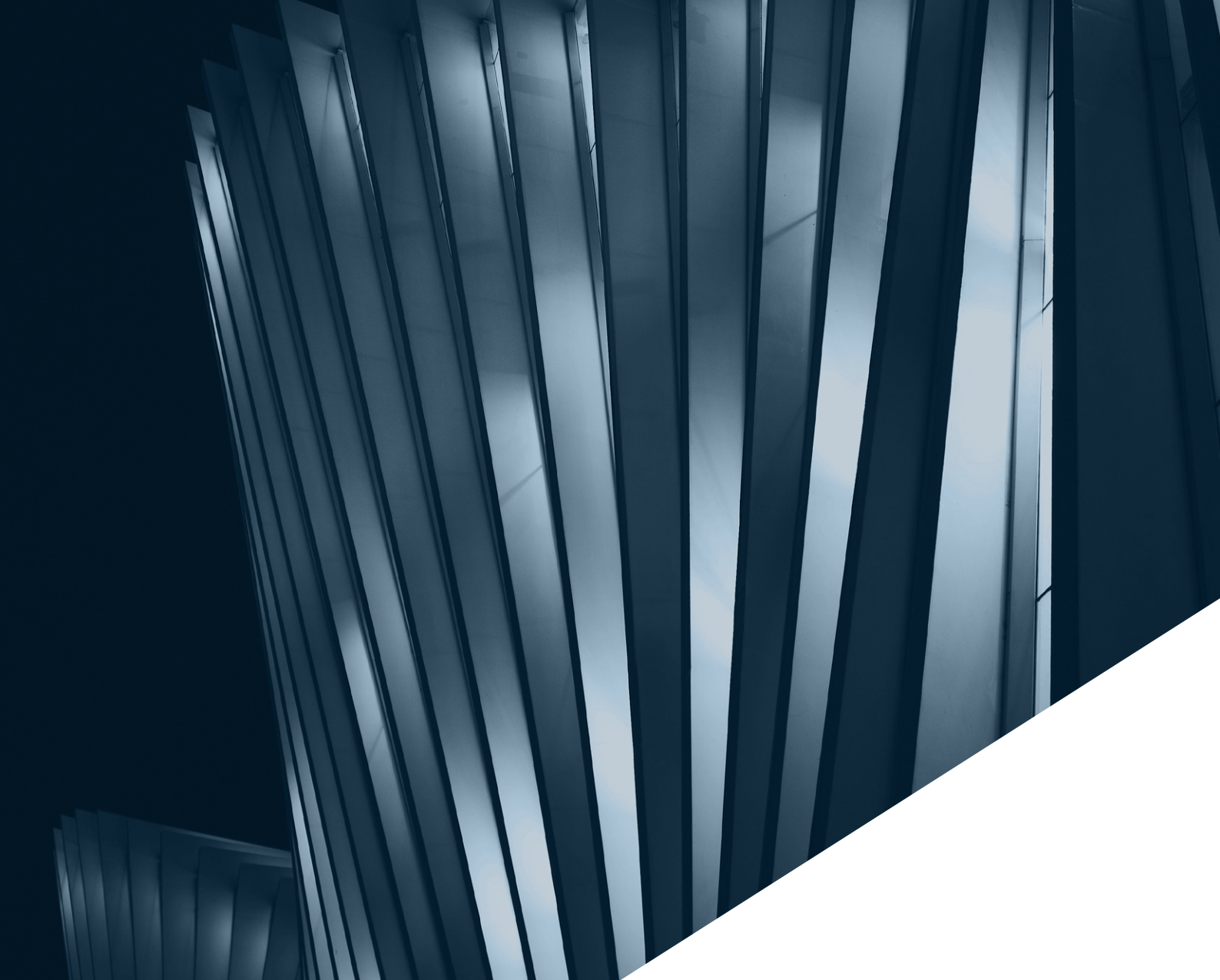
## Microsoft ordered to pay billionaire fine for patent infringement

At the beginning of May, the U.S. District Court of Delaware ordered Microsoft to pay US\$ 242 million for patent infringement in the scope of its virtual assistant. The jury's decision determined that the technology used for Microsoft's voice recognition violates the patent rights owned by IPA Technologies.





The lawsuit, which was filed in 2018, discussed the infringement of different patents on personal digital assistants and voice-based data navigation, but its scope was reduced to the infringement of one patent related to computer communication software.

According to the Brazilian Industrial Property Law, the patent owner has the right to prevent a third party from, without consent, producing, using, offering for sale, selling, or importing, for such purposes, a product subject to patent or a process or product obtained directly by a patented process, as well as the right to obtain compensation for the improper exploitation. In the Brazilian scenario, in the face of an infringement, the owner can take measures in court and out of court to protect their patent. At first, it is recommended that out-of-court measures be taken with the aim of settling the case.





### Partners responsible for the content:

-  Marcela Waksman Ejnisman
-  Carla do Couto Hellu Battilana
-  Luiza Sato
-  Stephanie Consonni de Schryver

### Contributed to this newsletter:

- Igor Baden Powell
- Isabella de Freitas Moraes Sampaio Pereira
- Julia Parizotto Menzel
- Julie Lissa Kagawa
- Maria Eugênia Geve de Moraes Lacerda
- Miguel Lima Carneiro
- Tatiane Robles Martins
- Valentina Garcia de Victor