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INTELLECTUAL
PROPERTY.
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01 Brazilian Context.

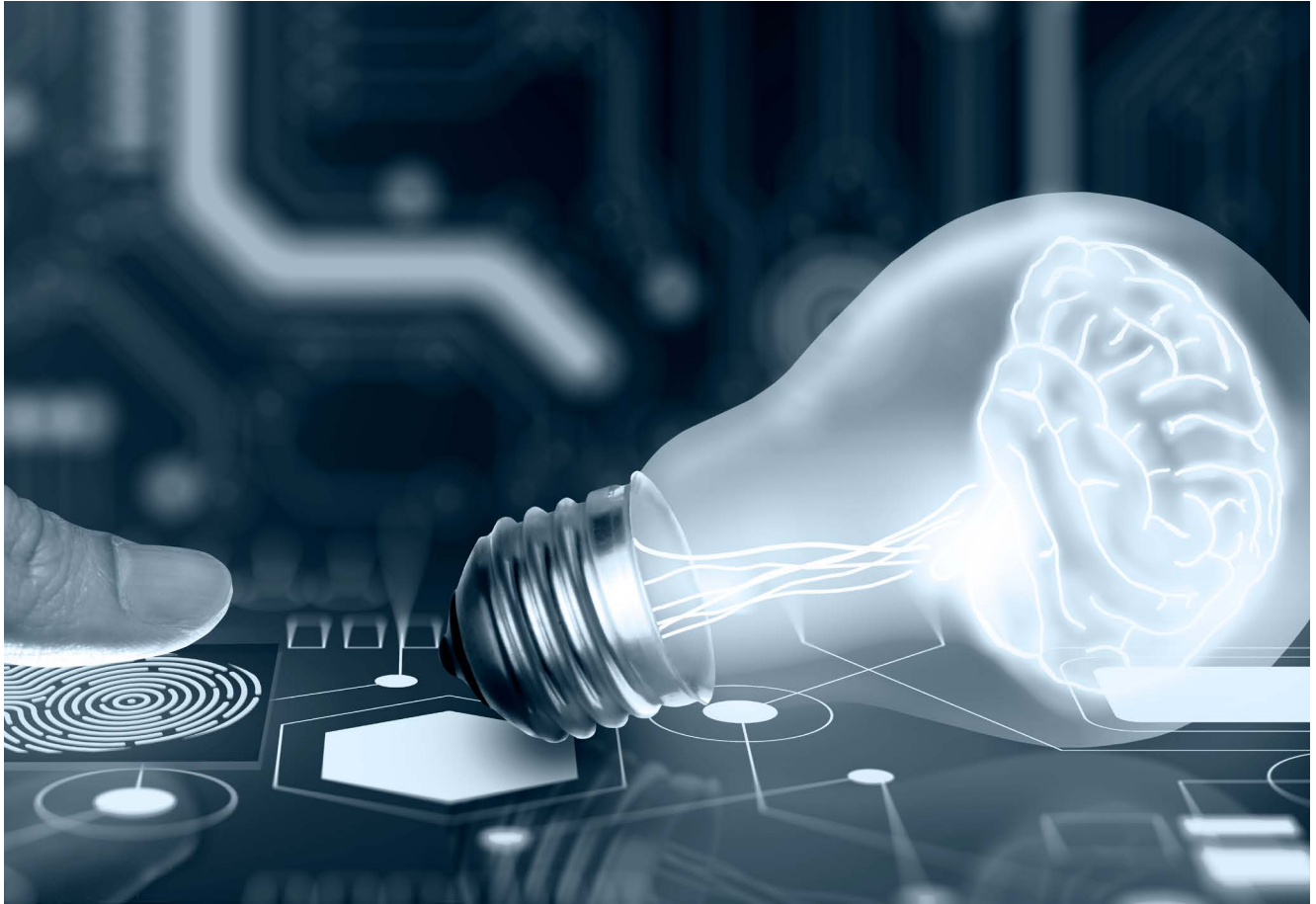
Publication of the decree enacting the Hague Agreement concerning the international registration of industrial design

On August 3, Decree No. 11,627/2023 was published (please access it [here](#)). It enacts the Geneva Act of the Hague Agreement concerning the international registration system for industrial designs. Brazil joined this Agreement in February and now Brazilian applicants can seek protection of their industrial designs in the 96 member countries, by filing a single international application before the International Office of the World Intellectual Property Organization (WIPO) and, likewise, foreign applicants can apply for protection of their industrial designs in Brazil through this international system.

In this regard, last month the Brazilian Patent and Trademark Office (BPTO) published Ordinance/INPI/PR No. 25 (please access it [here](#)), which regulates the processing and rules for designations and industrial design registrations under the Hague Agreement.

BPTO's president and directors are announced

In July 2023, the following appointments were made: Julio César Moreira as the president of the BPTO; Alexandre Dantas Rodrigues as the Director of Patents, Computer Programs and Topography of Integrated Circuits; Alexandre Lopes Lourenço as the Director of Administration; Schmuell Lopes Cantanhêde as the Director of Trademarks, Industrial Designs and Geographical Indications; and Tania Cristina Lopes Ribeiro as the Executive Director.



Expanded specialization of the Federal Court of Rio de Janeiro in Intellectual Property cases

On August 3, 2023, the President of the Federal Regional Court of the 2nd District ruled that, as of September 1, the 12th Federal Court of the Judicial Section of Rio de Janeiro will have exclusive jurisdiction to process and judge cases related to intellectual property, including trademarks, industrial designs and patents matters, by means of Resolution TRF2-RSP-2023/00033 (please access it [here](#)). This court will be the 5th Federal Court with such jurisdiction, together with the 9th, 13th, 25th and 31st Federal Courts of Rio de Janeiro.

This resolution demonstrates the increasing number of cases involving intellectual property issues and the need to continue having courts specialize in these matters and to increase the speed and quality of decisions.

CONAR creates Working Group on sports betting advertising

The National Council for Advertising Self-Regulation (CONAR) has set up a Working Group focused on the regulation of advertising related to sports betting, being directly aligned with the provisions of Provisional Measure No. 1,182/2023 and the modifications incorporated into Law No. 13,756/2018. This joint effort seeks to establish ethical standards for communication in the sector, supported by self-regulation and guidelines from competent authorities.

In this context, the Working Group gathers representatives of the founding and co-founding entities of CONAR, as well as members of the Brazilian Institute of Responsible Gaming (IBJR) and the National Association of Games and Lotteries (ANJL), with the main focus on promoting social responsibility in advertising practices related to sports betting. To reach this goal, the group intends to strengthen compliance with national legal regulations in force, while relying on a thorough study of the international regulatory landscape.

Constant monitoring will be an essential part of the process, along with the resolution of complaints and disputes through CONAR's Ethics Council. In addition, there will be a continuous awareness-raising effort aimed at ensuring that advertising practices in the sports betting segment are responsible and transparent. IBJR and ANJL member companies, eligible to operate in the country, will be invited to adopt these guidelines and commit to socially responsible advertising practices.



Coffee producers in the Southwest of Minas Gerais get Geographical Indication

At the end of July, the BPTO granted the recognition of the Geographical Indication (GI), in the Indication of Origin (IP) modality, for coffee beans produced in the Southwest of Minas Gerais. The request was made by the Southwest Minas' Association of Coffee Growers, which pointed out the importance of the region both in the volume of production and quality of the beans. The BPTO has already granted 80 Indications of Origin and 33 Designations of Origin, reaching a total of 113 GIs.

02 Court Orders.

Judge determines that BPTO register trademark Chico & Réus Brauhaus Hell's Bier

The Brazilian Court determined that the BPTO grant the registration of trademark “Chico & Réus Brauhaus Hell's Bier,” owned by Cervejaria Criciúma, a brewery.

At the administrative level, the BPTO decided for the rejection of this trademark application because the examiner understood that there was a conflict with the registration of trademark “Hell Energy Drink”, owned by HELL ENERGY Magyarország Kft, an energy drink company.

The court understood that, although both trademarks belong to the beverage segment and contain the term “HELL” in their names, they have distinctive graphic, phonetic and visual aspects that make it possible for them to coexist without the risk of confusion.

Broadcaster held liable for improper use of woman's image in TV show

According to the appellate judges of the São Paulo Court of Justice, the unauthorized use of a person's image by a television station is subject to payment of damages by the infringing party.

The judges upheld the lower court decision, which indemnified a person filmed improperly in the amount of ten thousand reais as damages.

The victim was recorded while serving artists of the broadcaster in the establishment where she worked. The broadcaster's defense claimed that there was a tacit authorization from the person, but the judges did not accept the plea. In this sense, the decision to compensate for the improper use of the image was unanimous.



03 IP Abroad.

Indian Court rejects PepsiCo's appeal and upholds revocation of patent for a potato variety

In July 2023, the Delhi Superior Court rejected an appeal filed by US company PepsiCo Inc and upheld the order to revoke a patent in India for a potato variety exclusively grown to produce Lay's potato chips. The revocation of this patent was determined by the Indian Protection of Plant Varieties and Farmers' Rights Authority in 2021 based on the impossibility of protecting seed varieties through patents under the laws of India.

Given this scenario, PepsiCo recently requested the withdrawal of lawsuits it has filed against Indian farmers for the alleged infringement of its patent for the potato variety.



Delaware federal judge rejects multimillion-dollar damages award in trial of false advertising case between genetic testing companies

A Delaware federal judge has rejected a US\$45 million damages award for genetic testing company CareDx in the trial of a false advertising case against rival Natera. According to the judge, the jury award was unjustified because there was no evidence that Natera's misleading advertisements about the effectiveness of Prospera, a test used to assess the risk that a person's body will reject a kidney transplant, actually deceived customers. The judge found the evidence insufficient and threw out the claim that Natera competed with CareDx unfairly.

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