




Intellectual Property.

Newsletter

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This is an informative newsletter
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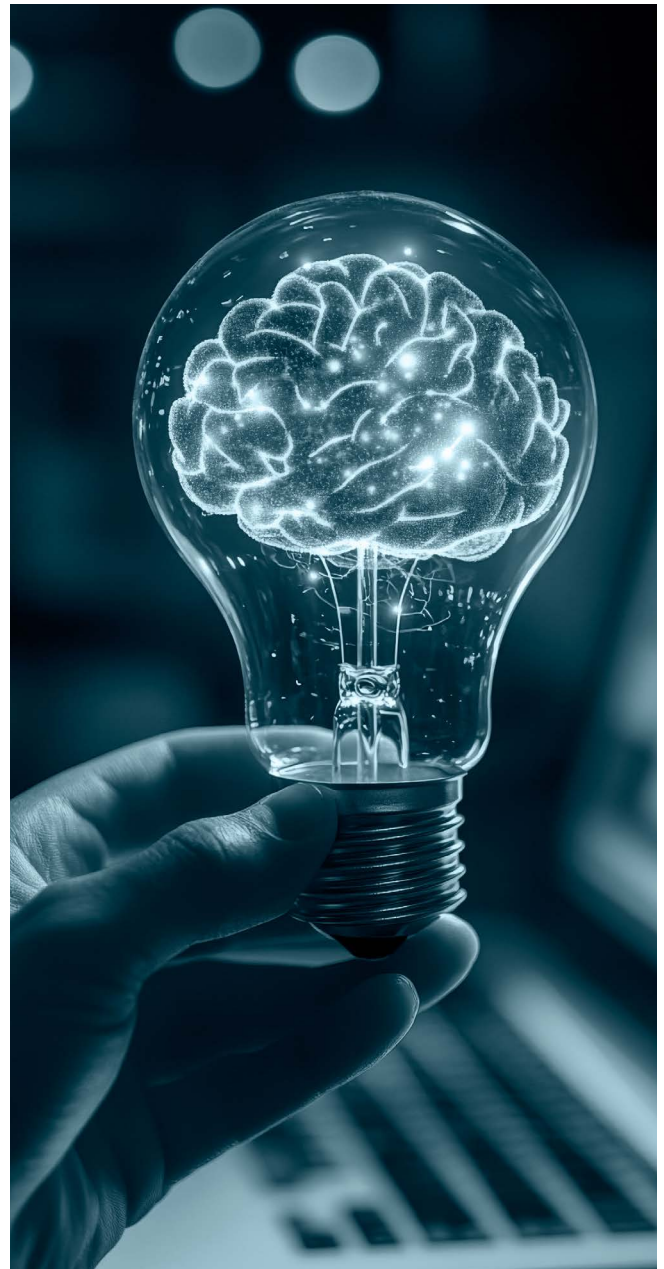
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BRAZILIAN CONTEXT

- **IP guide released by BPTO:** as part of the series of guides released by the Brazilian Patent and Trademark Office (BPTO), the 6th Intellectual Property Guide for Businesses has been released. Please access the full guides [here](#).
- **New WIPO office in Brazil:** on February 28, 2025, Decree No. 12,389/2025 was published, to renew the Agreement between the Federative Republic of Brazil and the World Intellectual Property Organization (WIPO), establishing a WIPO Coordination Office in Brazil. Please access the decree [here](#).
- **BPTO and ASPI new partnership:** the BPTO and the São Paulo Association of Intellectual Property (ASPI in Portuguese) have signed a protocol to fight counterfeiting and crimes against industrial property (IP), thus promoting IP culture in São Paulo. The agreement aims to address the negative impacts of these crimes on consumers, employment, tax collection, and health, and includes initiatives such as working committees, sector partnerships, and awareness campaigns. For m details, click [here](#).

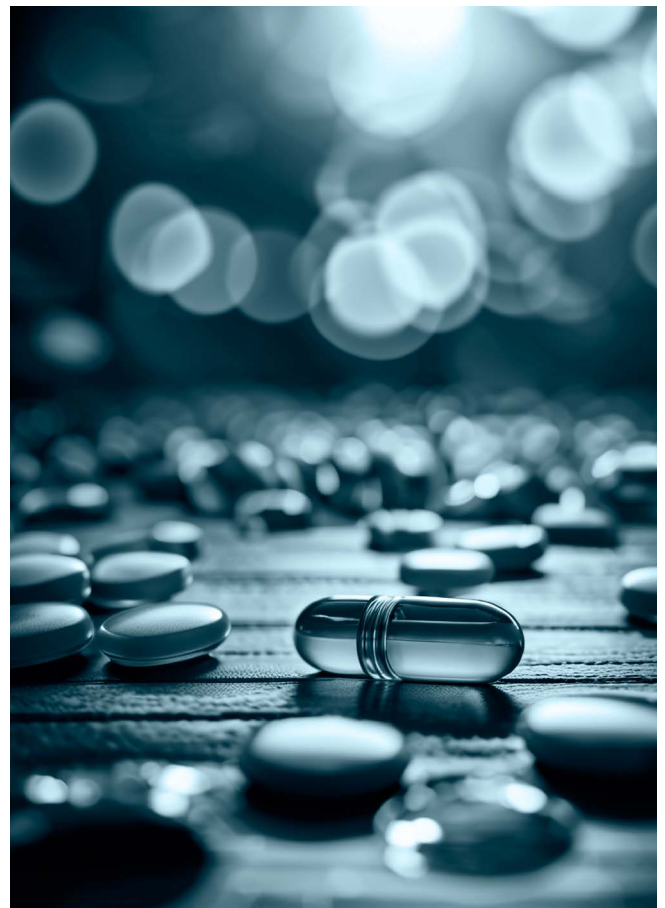


Supplements with names similar to those of weight loss drugs, such as Ozempink, are being challenged

Several companies have registered nutritional supplements using names similar to the famous drug “Ozempic” for treating diabetes and also used for weight loss, such as trademark application “Ozempink” (process No. 931546338). This strategy aims to take advantage of the prestige and recognition of established medicines, even if these supplements do not have the same efficacy standards or strict sanitary controls. The practice has raised concerns about the possibility of confusing consumers and raising legal questions in the field of intellectual property.

In addition, the registration of signs similar to the trademark of reference drugs raises questions about unfair competition and trademark protection. Improper association can mislead the public, compromising consumer safety and confidence. This context highlights the importance of continuous vigilance and the adoption of legal measures to preserve the rights of trademark owners and ensure the integrity of the information provided to the market.

Thus, the use of names that resemble those of consolidated drugs can constitute a strategy to unduly exploit the reputation of these products, harming both consumers and the sector as a whole.



CASE LAW

Vivara wins trademark dispute: Vivara vs Sigvara

The lawsuit seeking authorization to use trademark “Sigvara” has been dismissed. The businesswomen using “SIGVARA” brand argued that their activities were limited to the segment of semi-jewelry and costume jewelry, and that they operated exclusively on digital platforms and there was no intention of imitating Vivara, a famous Brazilian jewelry store. However, the BPTO had previously refused the registration of “Sigvara” brand due to the risk of confusion with the consolidated brand Vivara, which operates in the jewelry market.

Vivara, challenging the lawsuit, claimed that Sigvara brand violated its trademark, registered since 1984, and that this constituted unfair competition. The judge agreed with Vivara, emphasizing that the protection of registered

and reputable trademarks is essential to avoid consumer confusion. Thus, he ordered the businesswomen to cease using mark “Sigvara” and imposed compensations for pain and suffering and pecuniary damages.

Despite working in specific segments within the accessories market – Sigvara, with semi-jewelry and costume jewelry and Vivara, with jewelry – both companies were operating in similar markets. The similarity between the trademarks posed a risk of confusion for consumers, especially due to Vivara’s reputation. Therefore, the judge underscored the need to protect registered and widely recognized trademarks, such as Vivara, against the use of similar denominations that could cause harm and unfair competition.

TJSP allows the use of generic term “melanin” in assumed name

The 1st Chamber of Business Law of the Court of Justice of São Paulo (TJSP in Portuguese) upheld the decision that allowed company Sou + Favela de Comunicação e TV Ltda. to continue using the assumed name “Melanina Cast.” The lawsuit was filed by Silvana Regina Inácio, owner of trademark “Santa Melanina Podcast,” who claimed that the use of the expression by the defendant would cause confusion among consumers and sought an award for moral damages.

However, the judge pointed out that “melanin” is a common term that designates the substance responsible for skin pigmentation, not having enough distinctiveness to guarantee exclusivity of use. Thus, it was concluded that, although there is similarity between the

names, there is no risk of confusion or undue association, since both use an expression understood as “generic” that does not entail exclusivity protection.

This decision reinforces the importance of evaluating the distinctiveness of terms when registering trademarks. Words commonly used or generic are unlikely to obtain exclusive protection, as this could limit free competition and the use of expressions common in the market. However, assessing the differences and similarities between the sets of trademarks is important, as well as verifying the dilution of a certain word in a specific segment.

Please read the decision [here](#).





Renowned Japanese cuisine chef from “Makoto San” wins trademark dispute against competitor and highlights the importance of trademark protection

Chef Helio Makoto Yamashita, renowned for his Japanese cuisine in São Paulo and owner of restaurant “Makoto San,” claimed to have faced a decline in revenue following the opening of a competing restaurant with a similar name, “Makoto.” According to the chef, the resemblance between the trademarks has caused confusion among customers, resulting in significant losses for Yamashita and prompting him to seek protection of his trademark.

In 2021, Yamashita registered trademark “Makoto San” with the BPTO, however, his competitor continued to use the name “Makoto,” leading to a legal dispute. Although

the competing restaurant was favored in the decision of first instance, São Paulo Court of Justice (TJSP) acknowledged the risk of confusion and ordered the competitor to cease using the name “Makoto” and to pay Yamashita for the damages incurred.

Nevertheless, the situation has not been fully solved, as the competing restaurant has failed to comply with the court’s ruling. This case brings to light a relevant discussion about the protection of patronymics and legal disputes involving family names, especially when both parties operate in the same field of activity.

IP ABROAD

“Birkenstock” case: German Court establishes boundaries for copyright recognition in product design

Recently, a court in Germany determined that the famous Birkenstock sandals cannot be classified as works of art, resulting in a setback for the brand, which sought to secure copyright protection for its products. The dispute began in May 2023, when Birkenstock sued retailers “Tchibo,” “shoe.com” and the Danish company “Bestseller” for selling models similar to its footwear. After losing in the Cologne Court of Appeals in 2024 and in higher courts, the federal court reaffirmed that the sandals lack the necessary individuality to be protected by copyright, stating that “pure craftsmanship” is insufficient to characterize a product as art.

Established in 1774, Birkenstock is known for its leather and cork sandals and gained popularity in the 1970s, particularly among supporters of the hippie movement. The court’s decision raises important questions about copyright protection and the definition of “art” in product design. While Birkenstock defends its creative identity, the decision emphasizes that, for legal protection, a level of originality and individuality is required, which the court believes the sandals do not possess.





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