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BRAZILIAN CONTEXT

Innovation in Spotlight with New Action Plan of the National Intellectual Property Strategy

The government published the 2025-2027 Action Plan of the National Intellectual Property Strategy in the Federal Register. The plan promotes the use of the intellectual property system and encourages investments in innovation, with the collaboration of 13

government agencies and 24 civil society organizations. The planned actions include training projects in the Amazon region and initiatives to foster technology transfer between institutions and industries.

BPTO Launches Two Public Inquiries on Draft Guidelines for the Examination of Patent Applications

The Brazilian Patent and Trademark Office (BPTO) has launched Public Inquiries Nos. 2 and 3/2025.

Public Inquiry No. 2 aims to gather inputs on the draft of Chapter 9 of the Patent Examination Guidelines in the field of Chemistry, which addresses new uses of known products. The new guidelines require stricter standards, including mandatory in vivo evidence and limits on variations that do not offer novelty. These changes may significantly impact patenting strategies in

the pharmaceutical sector. The deadline to submit comments is September 26, 2025.

Public Inquiry No. 3 aims to gather feedback on the draft Guidelines for the Examination of Patent Applications related to Artificial Intelligence (AI), with the purpose of establishing transparent and up-to-date criteria that ensure legal certainty and foster innovative development, issues that are widely debated today. The deadline for submitting comments is October 17, 2025.

BPTO Published Three New Ordinances on the Priority Processing of Trademarks in Brazil

BPTO's Ordinances No. [27](#), [28](#), and [29](#) were published on July 25, 2025. They expand the hypotheses of free priority, create a pilot project for strategic applications, and provide criteria and limits for receiving

these applications between August and December 2025. These changes aim to align trademark examination with public policies for innovation and inclusion and to ensure greater institutional efficiency.

Marketplaces and Digital Platforms Will be Held Responsible for Pirated or Unapproved Products, as determined by Anatel

On August 4, 2025, the National Telecommunications Agency (Anatel in Portuguese) published [Resolution No. 780/2025](#). The rule determines that marketplaces and platforms that promote telecommunications products will be jointly and severally liable for items that are not

approved or that have irregularities, even when their work is restricted to disseminating and advertising these products.

For more information, please access: <https://tozzinifreire.com.br/boletins/mudancas-relevantes-trazidas-pela-resolucao-anatel-n-7802025>



ADMINISTRATIVE AND LEGAL DISPUTES

Puma Secures Trademark Protection in Ruling Against Starbult

The São Paulo Court of Justice ordered Starbult to stop manufacturing, marketing, and exhibiting shoes that copy Puma's distinctive elements, such as the famous wave-shaped stripe (formstrip) and the "wild cat" logo. The decision states that Starbult used these registered signs, as well as the name "MAYZE", which is linked to a line of Puma products, in its shoes, creating a strong similarity with the original products and a potential risk of confusing consumers.

The 1st Business and Arbitration Conflicts Court of São Paulo found that Starbult engaged in unfair competition. The court ordered Starbult to immediately stop using Puma's trademarks and trade dress, to pay R\$ 10 thousand for nonpecuniary loss, and to compensate for loss of profits to be determined in the settlement of the judgment. The judge explained that nonpecuniary damage is presumed in these cases and that trademark protection serves to protect the owner and prevent illicit diversion of clientele.

This decision highlights the importance of protecting the visual identity of brands as a strategic asset with high economic value. Companies, especially in the fashion and footwear industry, can face severe legal and financial consequences, as well as reputational damage, if they reproduce distinctive signs without authorization. The case also demonstrates that using similar elements, even with a private label, may constitute unfair competition if there is a risk that consumers will make an undue association.



Indaiá Wins STF Dispute over Embossed Water Jugs

Indaiá Brasil, a mineral water distributor, won an important case in Courts by preventing a competitor from using its embossed jugs, even though the competitor used a different seal. The Federal Supreme Court (STF in Portuguese) upheld the appellate court's decision, previously confirmed by the Superior Court of Justice (STJ), and recognized that bottling water from an unknown source in Indaiá's jugs could harm consumers' health and create confusion, diverting clientele.

The court analyzed the case and concluded that this practice constitutes unfair competition. Indaiá had previously notified the competitor extrajudicially and later filed a lawsuit for damages, arguing that the situation created a false impression of partnership between the companies. The court refuted the competitor's claim that this practice was common in the industry and emphasized the importance of commitment to ethics and consumer protection.

This decision reinforces the need to respect intellectual property rights and protect consumer health. Preventing practices that mislead or confuse consumers contributes to an ethical market and enables competition on fair and transparent grounds.



Cancellation of Trademark Registration after recognition of Prior Use by a Competitor

The Court of Justice of Mato Grosso do Sul (TJMS in Portuguese) canceled the exclusivity of trademark “Casa das Cores” granted by the BPTO in 2020, after it recognized that another company in the same sector has been using the mark in good faith since 1997. The owner of the trademark registration filed the lawsuit after obtaining a court decision that prohibited the competitor from using the distinctive sign.

The affected company showed that it has been using the trademark for more than two decades, presented registrations with the Registry of Commerce, and proved that the other party knew about this use before filing the trademark application. The court also considered a Federal Court ruling, confirmed by Federal Regional Court (TRF in Portuguese) of the 2nd Region, which canceled the trademark registration in the administrative sphere and reinforced the prior use.

The Court of Justice of Mato Grosso do Sul based its decision on paragraph 1 of article 129 of the Brazilian Industrial Property Law (Law No. 9,279/96), which recognizes the right of prior use for those who, in good faith, used the trademark before the trademark application. This legal provision aims to avoid injustices and curb opportunistic practices by protecting entrepreneurs that, even without formal registrations, have already consolidated their brand in the market and built a reputation with consumers. This decision is a relevant example of how the Judiciary Branch applies this provision, as it shows the court’s care in analyzing not only the formality of the registration but also the factual reality of trademark use.

Case No. 1402516-61.2024.8.12.0000. Please see the full ruling [here](#).

Gabriel O Pensador Files Lawsuit Against Virtual Stores for Copyright

The musician Gabriel O Pensador filed a lawsuit in Rio de Janeiro against virtual stores that use his song “Até Quando” without authorization, applying excerpts from the work in products such as t-shirts and paintings. The artist argues that the unauthorized reproduction of his creation infringes his copyright, thus requesting the immediate suspension of sales and recovery for nonpecuniary and pecuniary damages.

The lawsuit highlights the relevance of intellectual property protection in an increasingly digitized market, in which copyright infringement is common. In this context, the case may create an important precedent in Brazilian law, including regarding the liability of digital platforms for the sale of pirated products.

IP ABROAD

New Reciprocity Law: Implications For Trademarks and Patents in Brazil

Recently, the Intellectual Property scenario in Brazil has been impacted by the regulation of the new Reciprocity Law, which allows intellectual property rights and copyrights of foreign companies to be suspended. This move has attracted media attention, with several outlets reporting on the possibility of patent revocation as a response to trade tensions with the United States.

Although the new legislation was approved with the support of different sectors of Congress, it has the potential to create legal uncertainty, especially in strategic sectors of

the economy, such as pharmaceuticals and technology, which heavily rely on patents and licensing agreements. Although the government seeks to respond to unilateral actions and protect the competitiveness of Brazilian products, patent revocation is an extreme measure and not the best alternative currently. In this scenario, the Brazilian Intellectual Property Association (ABPI in Portuguese) and other experts emphasize the need to act with caution, as rushed decisions could have negative repercussions on Brazil's image as an environment conducive to innovation.





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