



Intellectual Property

41st Edition | 2026

This is an informative newsletter produced by the **Intellectual Property** practice of TozziniFreire Advogados.

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BRAZILIAN REALITY

Provisional Presidential Decree published to protect commercial rights for the 2027 Women's World Cup

[Provisional Presidential Decree No. 1,335](#) was published on January 23rd to protect the commercial rights of the 2027 FIFA Women's World Cup in Brazil. This measure regulates the use of trademarks and broadcasting rights, curbing ambush marketing in areas near stadiums and ensuring FIFA's exclusivity in image management.



BPTO publishes updates to the Geographical Indications Manual

The updates from the [Normative Ordinance INPI/PR No. 50/2026](#) improve guidelines for filing applications and preparing the Official Instrument of Delimitation of the Geographical Area.

BPTO announces its 2026 Action Plan and 2026-2028 Regulatory Agenda

Please see more details on links [1](#) and [2](#).

COURT CASES

Court rules on Flamboyant's practice of unfair competition by imitating Kibon's visual identity

The São Paulo Court ruled that dairy company Flamboyant practiced unfair competition by using packaging highly similar to that of Kibon, a Unilever ice cream company

Unilever filed, in 2023, a lawsuit alleging that Flamboyant copied visual distinctive elements from well-known products in the Brazilian

market, including ice creams Cornetto, Tablito, Chicabon, and Fruttare.

A technical examination found that the graphic and visual similarities formed a pattern of aesthetic imitation sufficient to mislead consumers or create undue association.

PRODUTOS UNILEVER



PRODUTOS FLAMBOYANT



Flamboyant argued that its products followed common industry references, particularly the use of colors associated with flavors, and that these elements could not be exclusively appropriated. The company also claimed noticeable differences in the packaging composition.

However, the judge rejected these arguments, finding that the overall similarities exceeded standard market practices. The ruling ordered Flamboyant to stop using the contested packaging, awarded R\$ 50,000

in non-pecuniary damages, and determined that pecuniary damages would be calculated in the stage of liquidation of the award.

This decision reinforces trade dress protection under Brazilian legal system, even without specific registration of the image set, when distinctiveness and likelihood of confusion are proven. For companies in highly competitive markets, creating a distinctive visual identity is not only a branding strategy but also an essential measure to mitigate legal risks.



Court annuls “Lactofull” trademark registration due to risk of confusion with “Lactofur”

The 9th Federal Court of Rio de Janeiro annulled “Lactofull” trademark registration that the Brazilian Patent and Trademark Office (BPTO) had granted to Botupharma Indústria e Comércio de Produtos Veterinários Ltda. (Botupharma), finding it conflicted with the prior “Lactofur” trademark owned by Ouro Fino Saúde Animal Ltda. (Ouro Fino).

Ouro Fino argued that “Lactofull” reproduced the distinctive core of its “Lactofur” trademark, which identifies veterinary medicines and preparations. Botupharma countered that the prefix “Lacto” is generic in the industry, that its mixed trademark had its own distinctiveness, and that the products served different purposes and audiences (livestock medicines versus companion animal supplements), eliminating any risk of confusion. The BPTO defended the lawfulness of its administrative decision.

The judge concluded that, although “Lacto” is a common prefix in this segment, Botupharma nearly reproduced the full “Lactofu” element - the predominant feature of Ouro Fino’s trademark - with only minimal suffix changes that failed to provide adequate distinctiveness. The court also rejected the specialty principle argument, reasoning that

both products belong to the same broad market segment-veterinary pharmaceuticals-and are sold in similar environments, which compromises the trademark’s distinctive function and prevents peaceful coexistence of the marks.

This decision underscores the importance of case-by-case analysis of trademarks’ distinctive cores and shows that using a common prefix does not preclude trademark protection when substantial reproduction of the predominant element occurs. The case also highlights the interpretive challenges around market affinity and the specialty principle in segmented markets for trademark owners and legal practitioners.



Lawsuit No. 5066721-34.2024.4.02.5101



Congress and Senate analyze bills seeking to “break patents” on tirzepatide-based drugs

In recent weeks, the Brazilian National Congress and Federal Senate have started discussing legislative proposals to enable compulsory licensing—commonly called “patent breaking”—of tirzepatide-based drugs, including Mounjaro and Zepbound, used to treat diabetes.

[Bill No. 68/2026](#), currently under urgent legislative procedure, declares Mounjaro and Zepbound to be of public interest—a requirement for compulsory licensing under Law No. 9,279/1996 (Industrial Property Law).

Meanwhile, [Bill No. 160/2026](#) proposes granting a temporary, non-exclusive compulsory license for the tirzepatide patent, contingent on proving insufficient supply, high prices, and significant impact on public health. This bill remains in early legislative stages.

Although each bill has a specific scope, both focus on expanding access to high-cost treatments and potentially reducing public spending on obesity-related diseases.

This discussion revives the debate over compulsory licensing limits as a public policy tool in industrial property matters.

Notably, applying this mechanism outside emergency scenarios may raise concerns about legal certainty and pharmaceutical innovation incentives, especially considering the high investments in research and development.

IP ABROAD

Spotify removes AI-generated version of song “The Fate of Ophelia”

Spotify removed “Sina de Ophelia,” an entirely AI-generated version of Taylor Swift’s song “The Fate of Ophelia,” after it became one of Brazil’s most-streamed tracks. The song featured deepfake voices of Luísa Sonza and Dilsinho, sparking debate over the legality of AI technologies in music creation and leading to its removal. Spotify has not clarified the specific reason for this decision, though it may relate to new guidelines the platform created to curb improper AI-related practices.

Spotify announced these guidelines in September to ensure transparency, protect artists’ rights, and prevent improper voice imitation and deceptive practices. Charlie Hellman, head of the platform’s music segment, stated that the intent is not to punish innovation but to protect both listeners and content creators. During the controversy, Luísa Sonza contributed to the song’s viral spread by recording a video lip-syncing her part, which garnered over seven million views.





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