BRAZIL´S UPDATES

INDUSTRIAL PROPERTY — APR/MAY 2018

PATCORP
INTELLECTUAL PROPERTY MANAGING

INPI Grants Geographical Indication For Cheese and Cocoa Beans

On April 24, 2018, INPI granted the registration of Geographical Indication (IG), in the Indication of Origin (IP) class, for the product "Cheese" from the Witmarsum Colony. The region corresponds to the limits of the former Cancela Farm, in the town of Palmeira, State of Parana. Currently, 20 tons of cheese are produced monthly and provided to markets throughout Parana and in various Brazilian States. IG has been granted in the name of Cooperativa Mista Agropecuária Witmarsum Ltda. The Industrial Property Magazine (RPI) nº 2468 also granted IG, in the Indication of Origin class, to the product "Cocoa Beans" from Southern Bahia. The protected geographic area includes more than 80 towns in the region, between parallels 13º03' and 18º21' S and meridians 38º51' and 40º49' W of Greenwich. The importance of the cocoa economic activity in Southern Bahia is historical, and started by mid-18th Century. In the last years, new generations of producers have introduced innovations in growing and agricultural management methods, such as e. g. the so-called "fine cocoa" initiatives. IG has been requested by the Association of Cocoa Producers of Southern Bahia.

Members of the National Council to Combat Piracy visit INPI

The National Directory to Combat Trademark Falsification was the subject of a meeting held on May 3, in Rio de Janeiro, between Directors of the Brazilian Patent and Trademark Office INPI and representatives of the National Council to Combat Piracy and Intellectual Property Infringement (CNCP). The INPI president, Mr. Luiz Otávio Pimentel, hosted the meeting.

INPI Presents its Actions to Swiss Delegation

On April 29, the president of the Brazilian Patent and Trademark Office INPI, Mr. Luiz Otávio Pimentel, presented in Sao Paulo a lecture on the Office's actions and challenges to a Swiss delegation, headed by Mr. Johann Schneider-Ammann, member of the Swiss Federal Council and chief for the Department of Economic Affairs, Education and Research (an organism with Ministry status). The event was coordinated by the Swiss ambassador in Brazil, Mr. Andrea Semadeni. The delegation, which also includes Swiss entrepreneurs who will invest in Brazil, is in a mission through Mercosur countries to better know the business environment of each nation. In this context, INPI restructuring was one of the main subjects. In his lecture, the INPI president highlighted a few recent results, such as the 25% expansion in the examiner panel; the increase of the number of technical decisions; and the backlog reduction last year (7.6% for patents, 14.9% for trademarks and 26% for industrial designs). The Patent Prosecution Highway (PPH) pilot projects have also been highlighted. The president also stated that the main INPI challenges currently are: to solve the backlog problem; to digitalize all documents in the institution; and to reduce bureaucracy. So to offer quick service, with high quality and efficient management, INPI has a series of steps in course, such as to obtain resources from the Federal Government, hiring personnel, investment in Information Technology, update management and improve internal procedures. During the event, the entrepreneurs have shown concerns with the delay in patent and trademark examinations. Another theme of interest was the Geographical Indication

Apple is Accused of Patent Violation for Duo Camera in its latest iPhones

Apple is again involved in judicial proceedings – but, this time, as a defendant. Apple is being accused of violating Corephotonics' patents, a company alleging to be the pioneer in the development of duo camera solutions for smartphones. It seems that the latest models of the iPhone line (7 Plus, 8 Plus and X) have made use of proprietary technologies from that manufacturer, based in Israel. The dispute started in 2017, a few months after iPhone 7 Plus was in-

troduced in the market. However, the case has just now gone to public, since Corephotonics has expanded the proceeding request, stating that a consultant from Apple would have contacted its team and "mocked" of its patents, stating that "it would take years and millions of dollars in litigation" before Apple was forced to pay something to them. We should highlight that Apple has patented its own duo camera technology and, curiously, Corephotonics' patents which have been added to the new version of the process were only officially registered in January this year - despite the application had been made much earlier. Anyway, it is quite probable that it will still take many months (or even years) for us to know the results of this story.

"Peixe Urbano" Cannot Forbid the Use of the Name "Arara Urbana"

The Court of Justice of Rio de Janeiro (TJ/RJ) has not found similarities between the names and has denied the request for preliminary injunction. The TJ/RJ 18th Civil Chamber has denied approval to an appeal against a first instance decision rejecting preliminary injunction as claimed by the company Peixe Urbano against the trademark "Arara Urbana". The company Peixe Urbano had asked the competitor to refrain from using part of the name of its registered trademark mark due to similarity. The company Peixe Urbano has filed a lawsuit lawsuit forcing to refrain from the use and requesting indemnification, with a request of preliminary injunction, for the competitor to refrain from imitating, reproducing and using, in whole or in part and under any form and allegation, the registered trademark and the name of the plaintiff, especially the term "urbana" and excerpts of the "terms of use" as adopted by its website, under the allegation that they would lead consumers to error. The first instance judge had not approved the injunction, understanding that "Peixe Urbano" cannot be mistaken by the term "Arara Urbana": "peixe" (fish) and "arara" (macaw) are fully different species of animals; (...) "urbano" is a masculine word, while "urbana" is a feminine form. The company Peixe Urbano has appealed from the decision, arguing that the companies have used similar trademark and dominion names when filing the registration of the trademark "Arara Urbana" with INPI – the Brazilian Patent and Trademark Office. When analyzing the appeal, the reporter Judge Mauricio Caldas Lopes has denied its approval. The reporter mentioned TJ/RJ precedent 59, establishing the reformation of a decision only in teratology cases. For him, the decision is prudent by remarking that the similarity intended by the company Peixe Urbano is not in sight: "(...) in this case, jeopardized by the lack of any previous demonstration that the respective terms lead the consumer to error, even more considering its target public, so to characterize confusion and, consequently, unfair competition". Concerning INPI's allegation, Lopes concluded that the non-approval of the trademark registration by the Trademark Office does not assume parasitic use for the trademark "Arara Urbana".

Nike is Accused of Using Pirate Software

Nike is being accused, within U. S. Justice, of making illegal copies and cracked keys of a databank software. The proceedings were filed by Quest, a company developing solutions for the corporate market, who states having caught the use of pirate software by that company during auditorships. The lawsuit, according to

the developer company, has been filed after numerous attempts for regularization. After detecting the existence of falsified software among those as used by the company, Quest would have notified it and given "all the opportunities" to pay for the licenses and regularize the software as used. These contacts, however, would have been ignored, thus motivating the proceedings. Now, Nike is judicially accused of breaking the software licensing agreement as signed with Quest, and also infringing copyrights of the company. The developer company has not defined an amount for compensation, asking the court to decide for the value, but states that the manufacturer of sporting materials knew what it was doing and intentionally pirated its solutions. The documents go beyond, stating that the keys as used by Nike's offices correspond to versions made available at "Torrent" sites. Furthermore, Quest states that there was a breach of contract by the use of pirate software to increase the number of proprietary software running on its machines, beyond the numbers established on the agreements between the two companies. The number of irregular copies has not been established by the documents. Therefore, besides the proper compensation, the developer company requests the footwear and sporting equipment manufacturer to immediately stop using irregular software. The idea is to review the agreement signed with Quest and adopt new steps according to its requirements of operation, by performing the necessary payments and no longer infringing the intellectual property of the company. Nike, however, has not yet replied to this matter.

Fonte: INPI / BR