

BRAZIL'S UPDATES

INDUSTRIAL PROPERTY

AUGUST/SEPTEMBER - 2021



BPTO ANNOUNCES PROCEDURES NOW THAT THE PREVIOUS APPROVAL FOR PHARMACEUTICAL PATENTS IS NO LONGER REQUIRED

The Law 14,195, published on August 27, 2021, established that the previous approval by the National Sanitary Vigilance Agency (ANVISA) for patent applications for pharmaceutical products and processes is no longer required. Art. 57, line XXVI, of the new Law cancelled art. 229-C of Law 9,279/1996.

Therefore, BPTO informed as follows:

- the patent flow between BPTO and ANVISA is terminated since August 27, 2021;

- applications to be returned by ANISA will go through usual proceedings with BPTO after the publication of dispatch 7.7, with a specific text concerning the cancellation of art. 299-C;

- the applications concluded by ANVISA and forwarded to BPTO before the cancellation of that article were published by the Industrial Property Magazine (RPI) 2763 (said applications concern the Official Actions 335 to 346/2021 COOPI/GGMED/ANVISA, dated August 23). These publications were for approval (dispatch code 7.5) or for not being included in art. 229-C (dispatch code 7.7).

- The applications which were awaiting ANVISA's analysis were returned to BPTO by means of the Official Actions 347 to 358/2021 on August 30, 2021. BPTO received a total of 1,284 applications. 54 of them already had ANVISA's approval, as published before the cancellation of art. 229-C, and will be published with dispatch 7.5 by RPI. One application has been withheld for correction of the Official Action;

- BPTO awaits 19 patent applications to be returned – these were facing requirements or already had a non-approval decision;

- The applications filed until December 31, 2016, included in the Backlog Combat Plan, will follow for examination and receive the publications 6.21 or 6.22.

REGULATION ON POSITION TRADEMARKS IN FINAL ANALYSIS

The regulation of position trademarks by BPTO was the subject of a round table on the last day (Aug 26) of the 41st International Intellectual Property Congress. BPTO's Director for Trademarks, Industrial Designs and Geographical Indications, Mr. André Luis Balloussier informed that the publication of the regulations and guidelines for the examination of position trademarks is expected for end September. The process is currently under final analysis of the judicial aspects and review of the contributions received by the public inquiry held between April and June. BPTO received 105 contributions.

After the regulations are published, BPTO will still need to adequate its systems to process the position trademark applications. The new service depends on these systems to be made available for users, as Mr. Balloussier highlighted during the event promoted by the Brazilian Intellectual Property Association (ABPI).

The establishment of position trademarks was included as a strategic initiative in the 2021 Plan for Action and required a long period of studies and debates. The Director informed that BPTO has performed wide research on this subject, including the analysis of possible re-classification for existing applications in BPTO's database, searching for specialized literature and requiring information on the technical aspects to other IP offices.

BPTO HAS ALREADY CONCLUDED 100,000 PATENT APPLICATIONS ON BACKLOG

During the first day of ABPI's International Intellectual Property Congress, held between August 23 and 26, the Director for Patents, Computer Software and Integrated Circuit Topography, Ms. Liane Lage, highlighted the effort by BPTO employees and contributors to reach the goal to reduce in 80% the total of 149,912 patent applications filed until the end of 2016 and included in the Backlog Combat Plan.

Until August 17, 100,913 applications were approved or definitively archived, representing a 66.8% reduction of backlog, and 19,736 applications remain to be solved. To reach the Plan's goal, Liane Lage informed that one of the strategies is to have the examiners from more advanced technological fields helping the areas with more applications, especially for having less examiners.

Post-backlog actions

Looking ahead, to what the Director called as post-backlog period, BPTO aims to widen the training of their examiners, establish the PCT quality system and mapping of the other proceedings, as well as other steps. However, she highlighted that the most important and immediate step to be taken is to perform a public competition for patent examiners, including with specific technical education for the new technologies emerging more and more quickly.



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