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Brazil: Hot Topics in IP during 2024

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I) PATENTS

1. BPTO's Performance Results in 2024

The Brazilian PTO released its 2024 Management Report, detailing the results of its operations considering the goals defined in the Strategic Plan for 2023-2026.

In 2024, the number of new patent applications was comparable to the previous year, with a total of 27,700 patent applications filed - 30% owned by Brazilian residents, while the remaining 70% were filed by non-residents. Even though the total number of domestic filings is lower than that of foreign applicants, the number of patent applications originating in Brazil ranks second globally when taken individually, only behind the United States. Likewise, the number of applications filed by residents increased by 12% if compared to the previous year.

Among other objectives, the BPTO aims to further increase patent filings and reduce

prosecution time in the upcoming years. The results for 2024 show that the Brazilian PTO is in the right direction to achieve this goal. The average timeframe from filing to a decision on the merits decreased from 4.65 years in 2023 to 4.4 years in 2024, thus representing a positive result in terms of efficiency in technical examination.

The Strategic Plan also focuses on the promotion of an Intellectual Property culture in the country and the recognition of the BPTO's value to society, which are of fundamental relevance to consolidate Brazil's role in the global IP landscape.

Another target for the upcoming two years is to implement digital transformation for improved user service and modernization/expansion of service capacity. The BPTO is diligently working to enhance governance, management practices, and institutional relationships.

Regarding patent and industrial design prosecution, the plan proposes actions to automate processing flows by replacing current tools and implementing new ones, as well as simplifying workflows. Patent searches are to be optimized by outsourcing to other sectors, such as universities. The use of artificial intelligence tools is equally pointed out as a valuable resource to assist patent searches.

Additionally, the Strategic Plan presents actions to optimize the patent database by scanning the document collection and correcting possible errors and inconsistencies, besides updating information in accordance with the standards of the World Intellectual Property Organization (WIPO). Still in this regard, a new information search solution is proposed.

In line with quality improvement, the Strategic Plan proposes the development of an automated system for reviewing the quality and compliance of the examination of patent applications and industrial design registrations, as well as a research project designed to gather

the impression of examination quality for external users.

2. Changes in the Appeal Instance Procedure

On March 19, 2024, the Brazilian PTO published new Guidelines for Appeals and Administrative Nullity Requests. The key changes are summarized below:

The Board of Appeals is tasked with reviewing amendments proposed in the appeal and determining their acceptance. In general terms, amendments cannot represent a new subject matter not discussed during the first instance examination.

Specifically regarding the amendments made to a rejected set of claims via appeal, it is allowed to make restrictive amendments intended to overcome objections raised during the first instance examination, provided that the following conditions are met:

(a) Amendments to the claims must be causally linked to the rejection decision. “Random” amendments or those not directly related to the grounds of rejection will not be accepted.

(b) Amendments must be consistent with the rejected set of claims. Subject matter deleted in the first instance cannot be reinserted in the claims.

(c) Claim restrictions must be expressly predicted in dependent claims or must be derived from the combination of independent/interconnected claims. Therefore, limitations based on the specification which are not present in the rejected set of claims will not be accepted.

(d) Changes to the nature of the application will not be allowed unless previously discussed in the first instance. In other words, a patent of invention application cannot be converted to a utility model application during appeal procedures if this issue has not been presented in the first instance.

(e) Additional data or documents may be submitted during the appeal instance if they intend to substantiate arguments related to the inventive step requirement.

In addition, the BPTO established Transitional Dispositions for pending appeals stating that applicants who filed appeals before April 01, 2024, and which do not comply with the new guidelines, will be granted a further opportunity to amend the claims by responding to an Office Action published in the appeal instance.

Moreover, the Brazilian PTO clarified the status of patent applications pending in the first instance of examination, stating that the set of claims of applications with a pending Office Action issued by April 01, 2024, could also be amended if the application was rejected and referred to the second instance of examination. In such cases, the applicant must, upon compliance with an Office Action issued by the Board of Appeals, justify and demonstrate the technical impossibility of adapting the claims to the new Guidelines for Appeals and Administrative Nullity Requests.

3. **Fast-Track Examination**

Besides the current 17 types of fast-track examination for patent applications, on January 1, 2025 the BPTO started Phase V of the Patent Prosecution Highway (PPH) program, including the Global PPH initiative.

This latest phase introduces several changes compared to the previous one, including:

- PPH requests can now be submitted for applications that do not originate from a PPH partner patent office.
- All patent offices participating in the Global PPH are now recognized as partner offices.
- Technical examination results from partner patent offices concerning patentable subject matter will be accepted.
- The definition of “patentable subject matter” has been revised to encompass subject matter analyzed under the PCT.

- A new limit of 3,200 PPH requests has been set for each annual cycle, along with a cap of 1,000 PPH requests per International Patent Classification (IPC) section.
- The previous limitations on PCT-based PPH requests and the weekly limit of one PPH request per applicant have been removed.

The current PPH partner offices are:

Australia, Austria, Canada, Chile, China, Colombia, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, European Patent Office, France, Germany, Hungary, Iceland, Israel, Japan, New Zealand, Nordic Patent Institute, Norway, Paraguay, Peru, Poland, Portugal, Russia, Singapore, South Korea, Spain, Sweden, United Kingdom, United States, Uruguay, and Visegrad Patent Institute.

Additionally, the BPTO continues to provide the other fast-track programs. The following scenarios qualify for a fast-track request:

- Patent applications from patent families initially filed in Brazil.
- Patent applications aimed at protection for green technologies.
- Patent applications related to the diagnosis, prevention, and/or treatment of AIDS, cancer, or rare and neglected diseases (such as Chagas disease, Dengue, Dengue Hemorrhagic Fever, Chikungunya, Zika, Schistosomiasis, Hansen's disease, Leprosy, Leishmaniasis, Malaria, Tuberculosis, Buruli ulcer, Neurocysticercosis, Echinococcosis, Yaws, Fascioliasis, Paragonimiasis, Filariasis, Rabies, Helminthiasis, and conditions resulting from venomous or poisonous animal exposure).
- Patent applications related to COVID-19 treatment technologies.
- Patent applications from individuals aged 60 or older.
- Patent applications submitted by individuals with physical or mental disabilities.
- Patent applications from individuals with serious illnesses.
- Patent applications from micro and small companies.
- Patent applications from Scientific, Technological, and Innovation Institutes.
- Patent applications from Startups.
- Patent applications required for securing financial resources.

- Patent applications involving unauthorized reproduction by third parties.
- Patent applications accusing third parties of infringement.
- Patent applications with prior users of technology.
- Patent applications for technologies developed with public funding.
- Patent applications for technologies available in the market.

Among these categories, as in 2023, PPH agreements continue to be the most popular for foreign users of Brazil's patent system. According to BPTO data, there were 803 fast-track examination requests in 2024 based on PPH agreements, reflecting a number nearly identical to that in 2023. The average processing time from fast-track request to a decision on the merits was 200 days, thus representing a 7% reduction compared to the previous year.

On the other hand, for domestic applicants, the most popular fast-track modes are those based on the applicant's age (individuals aged 60 or older) and the green patent program. In 2024, the BPTO registered 339 requests for elderly applicants and 183 fast-track requests related to green technologies. Notably, the number of requests based on green technologies increased 28% compared to 2023.

In view of the current changes announced by the BPTO at the end of 2024, it is anticipated that 2025 will see a record in the number of PPH requests, since the new limit of 3,200 PPH requests set for each annual cycle is four times higher than the quantity accepted in 2024 (800 requests). The adhesion to Global PPH is expected to further increase opportunities for applicants to expedite their prosecution, as more countries take part in the agreement.

II) TRADEMARKS

1. Slogan marks allowed by the BPTO

On November 27, 2024, the BPTO published an update to its Trademark Manual, now accepting trademark applications that contain advertising expressions (slogans). The new understanding equally benefits trademark applications that are still under analysis, including those filed before the Manual update.

This change marks a major development for the advertising and business markets in Brazil, responding to the demands of companies seeking to protect not only their marks and logos, but also verbal elements that connect emotionally with their clients and consumers.

What has really changed?

According to the updated Trademark Manual, a slogan may now be registered as a trademark as long as it meets the general requirements of distinctiveness and is not merely descriptive or generic. This means that slogans conveying a generic or common message are unlikely to be accepted. Conversely, creative and distinctive slogans would have a greater chance of registration if they were submitted to the BPTO under the new guidelines.

The possibility of registering slogans as trademarks brings several benefits. Companies can protect a valuable element of their mark identity, guaranteeing exclusivity and preventing misuse by competitors. In addition, distinctive slogans help create stronger emotional connections with the public, leveraging advertising campaigns and building customer loyalty. Another positive point is legal certainty, as registration guarantees legal protection for the owner, reducing the risk of disputes related to the use of the slogan by third parties.

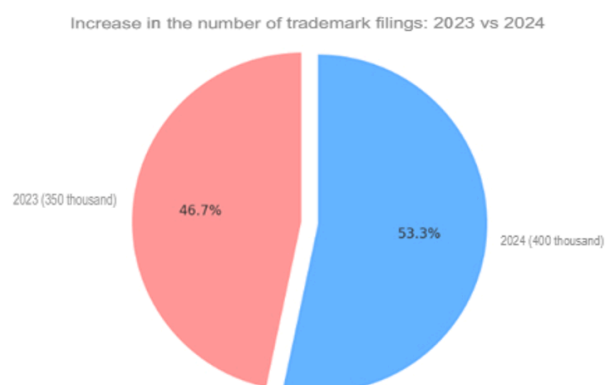
Alternatively, there are challenges to consider. The assessment of what constitutes a "distinctive" slogan can be subjective, creating uncertainty for applicants. With more companies seeking to protect slogans, the BPTO may face a significant increase in the volume of

applications, leading to longer analysis times. Furthermore, the registration of slogans by some companies may restrict the creative freedom of others who wish to use similar expressions in their communications.

The possibility of registering slogans as trademarks through the BPTO represents a significant advance for the protection of intangible assets in Brazil, enhancing legal security to companies and valuing advertising creativity. However, it is essential that applicants are aware of the BPTO's guidelines and requirements in order to guarantee successful registration. In a competitive environment, distinction and originality are more important than ever.

2. High number of trademark applications in 2024

The year 2024 was marked by a significant increase in trademark applications in Brazil, reflecting the economic boom and greater business awareness of the importance of protecting intangible assets. Preliminary data from the BPTO indicates that over 400,000 applications were filed during the year, surpassing the 350,000 registered in 2023 and representing a 15% increase. Around 70% of these applications came from micro and small companies, highlighting the central role of this segment in national entrepreneurship. Sectors such as technology, fashion and food led the registrations, in line with market trends and the expansion of e-commerce.



This surge can be attributed to several factors. The expansion of the digital environment and e-commerce has encouraged companies of all sizes to protect their trademarks in an increasingly competitive market. In addition, awareness campaigns promoted by trade associations and the BPTO itself have highlighted the benefits of registration, such as exclusivity in the use of the trademark and the prevention of legal disputes.

The increase in filings has brought significant benefits. It highlights the growth of entrepreneurship in Brazil, with new businesses consolidating and protecting their identities in the market. It further reflects the greater maturity of companies in relation to intellectual property, reducing conflicts and making businesses more attractive to investors and commercial partnerships.

However, this movement equally created obstacles. The high demand has overloaded the BPTO's infrastructure, resulting in delays in analyzing applications. Additionally, the growing number of registered trademarks has reduced the space for new distinctive names, demanding even greater creativity from entrepreneurs. Disputes over similar trademarks have also intensified, illustrating the difficulties of managing a system with such high volumes.

The record number of applications in 2024 represents an important milestone for the Brazilian market and highlights the maturity of companies in terms of intellectual property. Despite the difficulties, the benefits of a robust trademark registration system are undeniable. Continued investments in technology and in simplifying processes are essential if Brazil is to consolidate its position as a favorable environment for innovation and the protection of intangible assets.

3. **BPTO's intention in adopting *Secondary Meaning***

The BPTO's intention in adopting the concept of *secondary meaning* is to allow the registration of trademarks that, although initially lacking distinctiveness, have acquired this characteristic over time through consistent market use. This approach aims to make the trademark registration system more flexible, favoring companies that, over time, have earned the association of the trademark with a specific product or service, benefiting from legal protection.

The positive points include greater flexibility for trademarks that are not initially distinctive, which can encourage innovation and competition. In addition, this concept benefits entrepreneurs who, by investing in marketing, build a strong mark identity. Another benefit is clarity for consumers, who can identify the origin of products and services with greater certainty.

On the other hand, the adoption of *secondary meaning* encounters challenges. Demonstrating that a trademark has acquired distinctiveness is complex and costly, creating an obstacle for many companies. Moreover, the introduction of this concept could increase the number of disputes and generate ambiguity, since the assessment of the acquisition of *secondary meaning* can be subjective, depending on the interpretation of the BPTO examiner. There is also a risk of abuse, with companies trying to register generic marks claiming *secondary meaning*.

So far, the BPTO's approach to *secondary meaning* has been cautious. The office has sought to align itself with international practices, such as those adopted by the United States Patent and Trademark Office (USPTO) and the European Union Intellectual Property Office (EUIPO). In 2020, the BPTO began adopting a more systematic approach to the concept of *secondary meaning*, but the topic is

still controversial and is being debated in the academic field and in the business sector.

The BPTO has endeavored to provide clearer guidelines for companies seeking to prove that their trademarks have acquired *secondary meaning*, emphasizing the need for substantial evidence, including market research. However, the process still involves significant challenges, especially in terms of standardizing evidence and ensuring greater transparency throughout the examination process.

The debate on the adoption of *secondary meaning* reflects the evolution of industrial property in Brazil and a desire to align with international practices. Nevertheless, there is a delicate balance between guaranteeing protection for trademarks that have effectively become distinctive in the market and preventing generic or descriptive trademarks from taking undue advantage of the system.

In summary, while the BPTO's adoption of the *secondary meaning* concept has both positive and negative aspects, its implementation must be carefully observed, especially with regard to the clarity of the criteria and fairness of the examination process.

III) IP LITIGATION

1. **The Brazilian Superior Court of Justice's New Understanding on the Possibility of Arguing Patent and Industrial Design Invalidity in an Incidental Manner**

A significant development in the Brazilian patent litigation scenario in 2024 was the Superior Court of Justice's (STJ) decision in EREsp 1.332.417/RS, which harmonized the understanding that the nullity of patents and industrial designs can be raised incidentally in infringement lawsuits filed before State Courts, as a way of defense.

This ruling marks a shift in the Superior Court's approach, as for the past few years such

possibility was a subject not yet settled in the STJ, with a divergence between the 3rd and 4th Panels of said Court.

Whilst the 3rd Panel held the view that defendants could raise the nullity of patents or industrial designs as a defense in infringement lawsuits, the 4th Panel took an opposite position, arguing that the nullity of said industrial property registrations could only be discussed through an autonomous invalidity lawsuit before Federal Courts, with the BPTO acting as a co-defendant, pursuant to Article 57¹ of the Brazilian Industrial Property Law (Law No. 9.279/1996)^[1].

With the 2024 STJ decision intended to harmonize the divergent understandings of both 3rd and 4th Panels for improved predictability of rulings by the Brazilian Superior Court, a defendant in a patent or industrial design infringement lawsuit is now allowed to contest the validity of the asserted patent/industrial design as a defense strategy, rather than being required to initiate a separate lawsuit in Federal Court.

Rapporteur Judge Hon. Min. Nancy Andrighi highlighted that *"the recognition of the nullity of patents and industrial designs by State Courts, as it occurs incidentally, produces only **inter partes** effects and may serve exclusively as a guiding basis for dismissing the claims asserted in the related infringement action."*

This interpretation aligns the Brazilian case law more closely with international practices, where patent invalidity arguments are frequently presented as defenses in infringement disputes. The STJ recent ruling is expected to have a profound impact on patent litigation in Brazil, potentially increasing efficiency in disputes resolution and reducing procedural costs, as it may avoid parallel proceedings if the defendant is seeking a decision with *inter partes* effects.

It is important to highlight that such a decision does not prevent a defendant from filing a patent invalidity lawsuit before a Federal Court if it prefers so – especially because the participation of the Brazilian Patent Office (BPTO) as a co-Defendant is only possible before the Federal Courts and it may be interesting for the alleged infringer, as it is not rare for the BPTO to issue an opinion for the patent's invalidity or at least for its partial invalidity.

Although questions remain regarding whether lower courts will uniformly apply this precedent, as this not formally binding under Article 927, III of the CPC, it carries strong persuasive authority, as it seeks to harmonize the STJ's internal case law in light of the divergence between the 3rd and 4th Panels that make up the Second Section of the Court.

2. The Evolving SEP Landscape in Brazil

The litigation landscape surrounding Standard Essential Patents (SEPs) continued to evolve in Brazil in 2024, reflecting global trends and an increasing number of disputes over fair, reasonable, and non-discriminatory (FRAND) licensing abroad.

Many companies involved in these Brazilian judicial disputes are commonly already litigating outside Brazil as well. The favorable scenario for patent holders in the country, particularly with the Rio de Janeiro State Court becoming a favorable venue for patentees seeking preliminary injunctions on an *ex parte* basis, has made Brazil an attractive forum for SEP litigation.

Though neither the Brazilian Code of Civil Procedure nor the Brazilian Industrial Property Law distinguishes between essential and non-essential patents, it is unequivocal that the particularities of such microsystem and the way such lawsuits are developing in Brazil have

increasingly caught the attention of patent owners.

As the Brazilian Judiciary becomes more acquainted with the SEP thematic, a recent court decision has drawn the attention of players and attorneys alike.

Hon. Judge Victor Augustin, seated at the 6th business court of Rio de Janeiro, established the following criteria for granting a preliminary injunction in SEP patent infringement lawsuits:

1. In order to claim a preliminary injunction, the patentee must demonstrate compliance with FRAND conditions for settlement, mainly the non-discriminatory aspect. Such FRAND designation stands for Fair, Reasonable and Non-Discriminatory terms - meaning that anyone claiming to hold an essential patent for such a standard must license it to third parties under the referred conditions.
2. An *Ex parte* injunction will be conditioned upon a concise, unbiased opinion, in which the court-appointed expert will initially answer some queries submitted only by the judge, regardless of a comprehensive expert report further on.
3. Confidentiality of the court files will be limited to documents that disclose trade secret information, to be clearly identified by the interested party. Such provision has the purpose of allowing the case law to be clearly publicized, as the general civil procedure rule in Brazil mandates that lawsuits be public and fully disclosed to society.
4. A judicial bond has to be posted by the Plaintiff.

Despite not binding among the other judges of that State Court, such decision provided a clearer scenario on a highly technical and complex discussion that is only now being matured by the Brazilian judiciary.

Such a decision duly observed that in IP courts, unlike in other branches of law, disputes involve business matters orbiting around economic interests. Thus, in such a sphere, judges must ensure that the parties play a leading role and emphasize negotiated solutions, balancing the

exclusive patent rights while ensuring that FRAND terms were observed by the patentee during licensing negotiations.

As SEP litigation in Brazil grows more complex, the judiciary is trying to balance the rights of both parties through an equitable manner, striving for efficiency, efficacy, and effectiveness, without distorting the actions of economic agents or being used as a tool for other purposes. With further developments expected in 2025, Brazil is solidifying its position as an important jurisdiction in the global SEP debate.

3. Patent-Term Adjustment: Brazilian Judiciary keeping its harmonized decisions for the impossibility of extending patent term validity

As of 2024, the scenario of Patent Term Adjustment (PTA) in Brazil has followed the path prepared by the outcomes in several proceedings during 2023.

Though pharmaceutical companies kept filing new PTA lawsuits before the Federal Courts to revert the unfavorable scenario set in 2021 due to the result of the Direct Action of Unconstitutionality ADI 5529 - when the Brazilian Supreme Court declared unconstitutional the provision allowing automatic patent term extensions due to delays by the BPTO -, the 2024 scenario remained largely unchanged, with the dismissal of several lawsuits in the 1st and 2nd instances.

In February 2024^[2], the Supreme Court unanimously rejected a constitutional complaint filed by Bristol-Myers related to its attempt to extend the patent term for its apixaban-based **ELIQUIS**® drug intended for the prevention of venous thromboembolism.

According to Rapporteur Judge Hon. Min. Luiz Fux, the *ratio decidendi* of the binding precedent set forth by ADI 5529 should be preserved, as it established that any possible extension of a patent's term may only be

granted based on objective criteria established by law and cannot be granted by a judicial decision solely on the grounds of delays in the patent examination process by the INPI.

Whilst the Brazilian Judiciary keeps upholding the legal reasoning set by ADI 5529 and rejecting requests from pharmaceutical companies to extend patent validity terms, efforts to address patent term adjustments in Brazil are still underway. Discussions at the legislative level are focused within the law to avoid undue delays in the patent examination administrative proceeding.

Considering that in 2024, neither legislative nor judicial efforts yielded positive outcomes for patent term extensions, pharmaceutical companies in 2025 should keep an eye on the administrative sphere, specifically monitoring the timeline of their pending patent applications. Likewise, they may need to explore alternative legal measures to prevent the grant of stillborn patents.

IV) ADVERTISING LAW, GAMES, AND ONLINE BRAND PROTECTION

1. Brazil's Superior Court of Justice limits ANVISA's competence over drug advertising rules (RDC 96/2008)

By questioning the validity of RDC 96/2008 and its restrictions on pharmaceutical advertising, Brazil's Superior Court of Justice redefined the limits of ANVISA's role in regulating drug-related advertising

2. The New Legal Framework for Games - Innovations and New Protections for Intellectual Property

The New Legal Framework for Games brings advances in industry regulation, strengthening Intellectual Property protection. Although some topics still require regulation, its new guidelines

aim to boost the sector, ensure legal certainty, and foster innovation in the digital gaming market.

3. Responsibility of Providers in Providing Sponsored Links – New Approach of the Brazilian Superior Court of Justice.

The Brazilian Superior Court of Justice has adopted a new stance on the liability of providers offering sponsored links, reinforcing the need for stricter control over advertising content. The decision impacts platform responsibility in cases of trademark misuse and unfair competition, expanding protection for both businesses and consumers.

V) LITIGATION -BETS

Even though the regulation of online sports betting and casinos, the popular BETS, has been in development in Brazil for a little over a year with the approval of Law No. 14.790 of 2023, Brazil can already be regarded as one of the major global players in this market.

In 2024, the Brazilian Central Bank released a research showing that Brazilians spend around 20 billion reais a month on online gambling, considering only direct cash transfers, excluding bets made with credit cards or other payment methods.

In addition to a population in continental numbers that is passionate about sports, especially soccer, Brazil is attractive when it comes to taxation. While in the UK, Spain, and Italy, the segment is taxed at between 15% and 26%, in Brazil BETS will be taxed at 12%, plus additional amounts.

Given this promising scenario for the segment, in August 2024, 113 active players willing to continue operating in the country in the regulated market submitted requests to the Ministry of Finance to continue operating, as determined by ordinance 827 of 2024 of the

Ministry's SPA (Secretariat of Prizes and Betting). These requests will be given priority in the regulatory procedures defined by the agency.

Those that have not yet been regularized were classified as illegal as of October 2024, until they obtain proper authorization. Those who have applied for authorization but have not started activities at that date would only be able to start operating in 2025, after the authorization's grant.

Additionally, players in the segment are required to deposit a guarantee worth 30 million reais before starting operations and must comply with rules designed to combat fraud, money laundering and abusive marketing and advertising.

On November 19, 2024, the National Consumer Secretariat (SENACON) published a precautionary measure regarding advertising and bonuses for online gambling games. According to SENACON, the precautionary measure aims to protect consumers, especially the most vulnerable, such as children and teenagers, along with concerns about users' over-indebtedness.

The precautionary measure, which involves all companies in operation and authorized to operate fixed-odds bets by the Ministry of Finance, brought three main determinations:

(i) Suspension of Bonuses: Any advertising of rewards related to advances, bonuses, or prior advantages is suspended throughout Brazil, even if for the mere purpose of promotion, publicity, or advertising, for placing a bet.

(ii) Prohibition of Advertising to Minors: All advertising of fixed-odds online betting games (bets) targeting children and adolescents is prohibited throughout Brazil.

(iii) Transparency Report: Companies have 20 days to submit a detailed report on the measures implemented to comply with these suspensions.

Furthermore, the precautionary measure established a daily fine of R\$50,000.00 (fifty thousand reais) in the event of non-compliance by companies, until the measure is fully complied with.

Besides Law No. 14,790/2023, which regulates fixed-odds betting, the decision was based on the Consumer Defense Code (CDC) and the Statute of the Child and Adolescent.

Despite the legal period for companies to comply with Law No. 14,790/2023, which regulates fixed-odds betting, SENACON understands that the proposed provisions include adaptations already provided for in current legislation - Consumer Protection Code and Statute of the Child and Adolescent, and that, therefore, companies in the sector must adapt to the entire regulatory and legal framework in force in the national territory.

With an immediate impact, this decision requires adjustments to the advertising and marketing strategies of companies in the sector, being recommended that ongoing advertising campaigns be reviewed, as well as that advertisements offering bonuses or targeting children and young people be suspended. It is important that companies in the sector implement compliance mechanisms to ensure alignment with current regulations.

Another requirement is that as of January 2025, all authorized companies must use the ".[bet.br](#)" domain and, consequently, comply with the requirements inherent to .br domains, such as having a CNPJ [Corporate Taxpayer's Registry] responsible for the domain with Registro.br, the domain registrar in Brazil.

Finally, given the frequent developments in the area, it is crucial that participating companies seek updated information and legal guidance to ensure compliance with the new requirements.

VI) IP LICENSING

In 2024, Brazil's legal landscape experienced significant developments in contract law and intellectual property (IP), influenced by legislative changes, and technological advancements. Key topics include:

1. **Amendment to Forum-Selection Clauses:** On June 4, 2024, Law No. 14.879 was enacted, amending Brazil's Civil Procedure Code to limit parties' autonomy in choosing judicial forums. The law now mandates that the selected forum must have a meaningful connection to the domicile or residence of one of the contracting parties or to the location pertinent to the contractual obligation. This aims to curb forum shopping and may impact the enforceability of forum-selection clauses.
2. **Simplification of Technology Contract Registration:** BPTO issued Ordinances No. 26/2023 and No. 27/2023 to simplify the registration process for technology-related contracts. Key changes include eliminating requirements for notarization, apostille, and witness inclusion, as well as the acceptance of digital signatures without an ICP-Brasil certificate. These modifications aim to modernize procedures and reduce bureaucratic hurdles in technology transactions.
3. **Alignment with OECD Transfer Pricing Standards:** Law No. 14.596, enacted on June 14, 2023, revised Brazil's transfer pricing rules to align with the Organization for Economic Cooperation and Development (OECD) standards. Effective January 1, 2024, the law mandates the application of transfer pricing rules to determine deductibility limits in technology transfer contracts, adopting the arm's length principle and eliminating pre-fixed maximum deductibility thresholds. This alignment seeks to enhance Brazil's integration into the global economy and affects the structuring of technology transfer agreements.
4. **Adoption of electronically signed contracts in Brazil:** With the support of MP 2.200-2/2001 and Law 14.063/2020, driven by legal recognition, increased digitalization, and the growing use of platforms like DocuSign and Clicksign, the adoption of electronically signed contracts is gaining momentum. Businesses across finance, corporate, and IP

sectors are increasingly relying on e-signatures for efficiency and security. Courts have upheld their validity, reinforcing trust in digital agreements. While some documents still require physical signatures, the trend is clear: electronic contracts are becoming the standard, simplifying transactions and reducing bureaucracy.

Brazil's evolving trademark, patent and litigation landscape highlights the increasing importance of intellectual property protection. Whilst recent legal developments bring clarity and security to businesses, ongoing challenges need strategic adaptation to regulatory changes and market demands.

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