



Chapter 2 - Brazil Hot Topics in IP 2025: Trademarks

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New Fee Schedule

On May 12, 2025, the BTO published Ordinance INPI/PR No. 10, dated May 9, 2025, establishing a revised fee schedule for services provided by the Office. This new fee schedule came into force on August 7, 2025, significantly affecting filing strategies and budgets, petitions, and other acts within trademark prosecution.

Among the changes, we highlight the elimination of the grant fee, as well as the introduction of new services. There was a significant increase in the cost for filing trademark applications, given the creation of a single fee that now covers, at the time of filing, which encompasses the first ten years of registration. Previously, this amount was only due after examination and approval.

Highly Reputed Status: new evidentiary parameters

Another important development in 2025 was the refinement of the Office's examination criteria to analyze applications for highly reputed status. On July 23, 2025, Ordinance INPI/PR No. 25/2025 was published, amending the previously applicable rules and reinforcing the evidentiary criteria governing this procedure.

The main change concerns the role of market survey in proving mark recognition: while previously such evidence was merely recommended, it has now become mandatory. In addition, minimum recognition thresholds to be met in the survey were consolidated as a condition for the BTO to accept the analysis of the material presented in the application.

Priority examination

A further notable amendment was the reformulation of **the priority examination procedure**, whereby certain applications and/or petitions are eligible for expedited review by the BTO.

The service may be requested either during prosecution or post-registration, subject to specific eligibility requirements, notably: **(i)** cases with priority provided for by law, such as applications involving persons with disabilities, elderly individuals, persons with serious illnesses, or companies operating under the Inova Simples regime; and **(ii)** cases aligned with public policy objectives, among which the following may request priority: ICTs and startups mentored by the BTO; cases involving the release of public funds; situations of public interest or national emergency; products associated with priority patents; cases involving legal disputes; and situations in which opposition has been filed based on a right of precedence.

From a strategic perspective, priority examination becomes particularly relevant in cases of commercial urgency, investment rounds, public projects, or risk scenarios.

Sports betting

Another major advance was the BTO's technical position on the registrability of trademarks related to betting services, especially in light of recent changes in the Brazilian regulatory environment.

In this context, the BTO has begun accepting trademark applications related to fixed-odds sports betting, as this activity is considered lawful and regulated. On the other hand, limitations persist with regard to generic or descriptive expressions that may indicate **games of chance** or unauthorized activities.

It is worth noting that the BTO informs that only legal entities, whether domestic or foreign, controlled by a Brazilian legal entity, may apply for a trademark for sports betting. In other words, natural persons are not eligible to apply for trademarks within this segment.

Secondary meaning

On November 28, 2025, the BTO published an update to the Trademark Manual, providing specific guidance on the recognition of acquired distinctiveness (secondary meaning). This concept refers to situations in which an inherently weak sign —such as suggestive terms or low-distinctiveness terms — may nonetheless achieve trademark protection by virtue of continuous use and consolidation of the sign in the eyes of consumers.

The Guidelines now detail the expected evidentiary structure with greater precision, reinforcing the need for documents capable of demonstrating consumer perception and the association of the sign with a specific business origin. The evidence may be submitted at different stages, such as: **(i)** upon filing; **(ii)** within 60 days following publication; **(iii)** on appeal; and **(iv)** as a defensive argument in response to opposition and/or the Administrative Nullity Action.

Opposition with restriction of allegations

Among the most relevant changes is the introduction of a simplified opposition procedure with restricted allegations, known as Opposition 2.0. This is a mechanism aimed at making the opposition procedure simpler and faster in specific cases.

The modality will be restricted to cases based on art. 124, item XIX, of the Brazilian IP Law, that is, when the main basis for the opposition is the existence of a prior registered trademark that would prevent the new application from being granted. In addition, this modality has considerable limitations, including: **(i)** use of up to 5 prior trademarks; and **(ii)** no submission of written arguments is permitted. In other terms, it is a low-cost alternative, with a lower fee than those applicable to traditional oppositions.

Publication of the 13th edition of the Nice Classification

The 13th edition of the Nice Classification came into force on January 1, 2026, bringing meaningful changes to the way products and services are organized for trademark registration purposes.

Among the main changes is the reallocation of various products between classes, with the aim of making the system more logical and functional. Glasses and lenses, for example, were reclassified from Class 09 to Class 10, however smart glasses were kept in class 09 due to their technological nature; rescue vehicles moved from Class 09 to Class 12, aligning them with vehicles in general; heated clothing left Class 11 and became part of Class 25; essential oils are no longer subject to a uniform classification and are now classified according to their purpose and may be considered products for medical use (class 10), cosmetic use (class 03), or food use (class 30).

The new edition also includes new terms and categories aligned with current market trends and contemporary services, such as artificial intelligence-based services, now expressly recognized in Class 42, and airport lounge access services, included in Class 43.

It is important to note that applications filed by December 31, 2025, were classified according to the 12th edition, whereas those filed after the publication of the 13th edition became subject to the revised classification framework. Therefore, during this transition period, it will be necessary for availability analysis, prior art searches, and protection strategies to consider both the old and new classes simultaneously in order to mitigate potential conflicts.

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