



SEP Litigation in Brazil: What 2026 Looks Like

Montaury Pimenta, Machado & Vieira de Mello

Brazil | June 2 2026

In 2025, around 40 SEP infringement court actions were filed in Brazil. In the opening months of 2026, around 20 more followed, with the trajectory pointing to a fuller year ahead. A few patterns stand out.

Video accounts for most of the docket

Across 2025 and 2026, video codec cases account for around 60% of all SEP filings, with cellular technology at around 30% and audio technology at around 10%.

The standards in play

Within video technology, HEVC carries most of the weight, and recurrent technical areas include Sign Data Hiding, Merge Mode and Weighted Prediction. In cellular technology, both 4G/LTE and 5G NR are active, with 5G assertions accelerating in 2026.

New categories of defendants entered the docket in 2026

OEMs continued to be sued, joined by new categories of defendants. Streaming and OTT platforms, social media, wearables, and connected vehicles all became SEP defendants in this window. Automotive and wearables are the most recent additions.

Pool-driven campaigns have intensified

Across the 2026 docket, Access Advance leads, accounting for roughly 40% of the filings, with Avanci and Via LA each around 15%; individual SEP holders outside any pool account for the remaining 30%.

Multiple filings against the same target

Recent examples span multiple segments: a single defendant facing 3 filings within roughly 1 month, another facing two filings within 15 days, and several cases of 2-3 concurrent court actions filed on the same day or within a few days, across streaming, automotive, social media and consumer electronics.

A pool settlement does not always close the file

Defendants who settled prior pool disputes have been pursued again, in some cases shortly after, on a different standard, this time by a licensor from a different pool or by a SEP holder outside any pool.

Geography, with a recent twist

Asian-headquartered companies still account for roughly two-thirds of all defendants, with China responsible for most of that share. What changed recently is the entry of US-headquartered defendants into the docket, driven by the new categories of streaming, social media and wearables.

The center of gravity has moved to the expert phase



While in earlier years *ex parte* preliminary injunctions were often granted in favor of SEP holders, the more recent pattern has been for courts to postpone interim relief and order expedited technical examination first, although preliminary injunctions continue to be granted in selected cases. Expert evidence has gained weight as a gating step.

FRAND has become an open avenue, for both sides, while case law is being built

Courts have begun to engage with FRAND compliance directly. In a meaningful shift, courts have placed it on the plaintiff's burden from the outset, rather than reserving it for the merits stage. In recent decisions, courts have gone further on the pricing side. Some have indicated they will not set a royalty rate themselves but will instead decide which of the parties' offers is more reasonable. In practice, they have fixed provisional FRAND terms in line with the SEP holder's offer, without waiting for a separate royalty-setting phase.

The development cuts both ways. For SEP holders and implementers alike, FRAND is increasingly a strategic avenue worth exploring, both in framing the conduct during negotiations and in shaping the terms of interim or permanent licenses, as the courts build case law in real time.

The scope of expert work has expanded

As more cases reach the technical phase, the discussions have expanded beyond essentiality alone. Recent decisions have ordered further expert work after the initial report, whether through a second expert or a complementary examination by the same one, and the discussion has broadened with it: how to handle economic assessment, who is qualified to assess FRAND, which criteria should govern that assessment.

Outcomes at the expert phase are starting to diverge

The technical examination phase is where decisions on injunctive relief are increasingly being made. The expert examination phase in Brazil now operates differently from many other jurisdictions, and it demands strategic preparation from both sides.

In one recent case involving a cellular standard, the court-appointed expert's report concluded that there was no infringement, leading to the revocation of a previously granted preliminary injunction. In another, the expert found the patent not essential to the standard, yet infringed by the accused products.

The roster of court-appointed experts is broadening, and the choice itself is now contested

Until recently, a single technical expert handled most of the SEP cases in Rio. That has changed. Different experts are now being appointed across the business courts, with backgrounds ranging from engineering to law and academia, and the new names have often been challenged by one of the parties shortly after appointment.

Economic experts have also begun to appear for the FRAND portion of the analysis, although some courts continue to entrust both the technical and the economic assessment to a single expert.

Procedural calendars have tightened, and conduct on both sides is being read

Courts that decline interim relief from the outset have been setting strict procedural timetables, with expert reports landing within months. They have shown less tolerance for requests that, in ordinary litigation, would be routine: extensions of the fifteen-business-day deadline for the full defense (both technical and FRAND-related), late prior art submissions, supplemental queries close to the submission of the report. These steps are being read in combination, not in isolation.

In recent cases, conduct viewed as patterned delay has prompted evidence-based injunctions of unusual speed, with the courts saying so on the record.

Information asymmetries have started to narrow in both directions

At the initial stage, courts have begun ordering customs authorities to report import volumes of the accused products, and, in parallel, ordering SEP holders to produce comparable licenses.

A parallel signal from the Federal Courts

The Federal Courts, traditionally slower on patent invalidity actions, have started admitting expedited technical examination in nullity proceedings as well. Recent decisions point in that direction.

The strategic window is short

The expert phase has become the center of gravity. The calendar is tight, the full defense and the full enforcement strategy both require technical and economic preparation before filing or service, and the conduct of recurrent defendants and SEP holders is being watched and weighed.

For anyone with exposure to SEPs in Brazil, whether already in the docket or watching from outside, the room for miscalibration has narrowed

Montaury Pimenta, Machado & Vieira de Mello - Vicente Rosenfeld

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