

GUIDE - INDUSTRIAL PROPERTY (IP) JOURNEY IN BRAZIL

This material is focused on the administrative process before the Brazilian PTO, with emphasis on actions, deadlines and documents crucial to legal practice for trademarks (1) and patents (2).

Common Steps (Pre-Petitioning)

Trademark and Patent



STEP	ACTION	TECHNICAL/LEGAL DETAILS
1.1. Prior Consultation/ Prior Search	Search the Brazilian PTO database (advanced search) and the Nice Classification (Trademarks) or International Patent Classification (Patents).	Essential to evaluate the feasibility of registration (Trademark) or patentability (Patent), verifying the existence of identical/similar prior art. Analysis of conflict and distinctiveness (Trademarks) or the requirements of novelty, inventive step and industrial application (Patents, according to Brazilian IP Law, arts. 8 to 17).
1.2. Registration in the e-BPTO and Issuance of GRU	Carry out the registration of the client (holder) or legal representative in the e-BPTO system. Issue the Federal Government Collection Slip (GRU) with the correct service code.	The petition is made electronically after the generation and payment of the GRU. The filing date is the date of the petition in the system, after payment (First to file principle). Attention to the remuneration table and the possibility of discount for some applicants (Ex.: Individuals, MEI, ME, EPP, Educational Institutions).

1. Specific Flowchart: Trademark Registration (Distinctive Sign)



The process is governed by the Industrial Property Law (IPL) no. 9.279/96.

STEP	ACTION AT BRAZILIAN PTO	LEGAL DEADLINE/TECHNICAL DETAILS
2.1. Filing/Protocol	Petition via e-Trademarks, filling out the form and attaching the image (if word and figurative or figurative trademark).	The filing date establishes the priority. The class(es) of the Nice Classification and the specification of the products/services must be correctly indicated.
2.2. Absolute Grounds Examination	Analysis by the Brazilian PTO of the absolute grounds.	If there is an office action on absolute grounds, the applicant has 05 (five) days to comply, under penalty of being considered non-existent.
2.3. Publication in the RPI	Publication in the Brazilian Intellectual Property Magazine (RPI).	Trademark published in the RPI confers the right of opposition to interested third parties.
2.4. Opposition	Third parties may object to registration.	Deadline of 60 (sixty) days from publication (BIPL, art. 158). Legal representative for the applicant may (optionally) file a statement with the opposition within sixty (60) days of the publication of the opposition.

1. Specific Flowchart: Trademark Registration (Distinctive Sign)



STEP	ACTION AT BRAZILIAN PTO	LEGAL DEADLINE/TECHNICAL DETAILS
2.5. Relative Grounds Examination	Analysis of legal impediments to registration (Brazilian IP Law, arts. 124 and 126).	The Brazilian PTO may issue an office action on relative grounds (within 60 days for compliance) or suspend the application or grant (acceptance) or reject (refusal) the application.
2.6. Appeal to Rejection	Applicants may appeal the refusal decision.	Deadline of 60 (sixty) days for filing an Appeal (BIPL, art. 212).
2.7. Grant and Certificate	Publication of approval and after the grant of registration.	The registration is in force for 10 (ten) years, counted from the date of the grant.
2.8. Maintenance	Monitoring of the application and competition; payment of ten-year renewals.	The application for renewal must be filed during the last year of validity of the registration or within a grace period of 6 (six) months (upon additional payment).

2. Specific Flowchart: Patent Filing (Invention or Utility Model)



The process is governed by the Industrial Property Law (LPI) no. 9.279/96.

STEP	ACTION AT BRAZILIAN PTO	LEGAL DEADLINE/TECHNICAL DETAILS
3.1. Filing/Protocol	3.1. Filing/Protocol Petition via e-Patents, presenting: Descriptive Report, Set of Claims, Drawings (if applicable) and Abstract.	The filing date establishes the priority. The document must be detailed enough so that a person skilled in the art can reproduce the invention (descriptive sufficiency).
3.2. Formal Examination	Analysis by the Brazilian PTO of the formal requirements.	If there is a formal requirement (BIPL, art. 37), the applicant has 30 (thirty) days to comply, under penalty of returning or filing the documentation.
3.3. Publication	Publication of the patent application.	It occurs after 18 (eighteen) months from the date of filing or the oldest priority (unless requested for early publication).
3.4. Payment of Annuities	Beginning of payment of annuities.	The annuity must be paid from the third year of the date of direct filing or international filing (Brazilian IP Law, art. 84), and it is essential to monitor the payment to avoid extinction.

2. Specific Flowchart: Patent Filing (Invention or Utility Model)



STEP	ACTION AT BRAZILIAN PTO	LEGAL DEADLINE/TECHNICAL DETAILS
3.5. Examination Request	Formal request for the Brazilian PTO to start the technical analysis.	The applicant or any interested party must request the examination within 36 (thirty-six) months from the date of direct filing or international filing (Brazilian IP Law, art. 33). Failure to pay results in archiving.
3.6. Technical/Substantive Examination	Analysis of patentability requirements: Novelty, Inventive Step and Industrial Application.	The examiner may issue Technical Office Actions (within 90 days for compliance). Third parties may submit Examination Subsidies/Oppositions after the application is published.
3.7. Decision (Grant/Refusal)	Result of the technical analysis.	If it is refused, there is an Appeal (60-day deadline, Brazilian IP Law, art. 212).
3.8. Grant and Patent Certificate	Publication of the Granting of the Patent Certificate.	Patent of Invention (PI) lasts 20 years and Utility Model Patent (MU) lasts 15 years (Brazilian IP Law, art. 40), both counted from the filing date.

- **Monitoring of the Brazilian Intellectual Property Magazine (RPI):**
The weekly monitoring of the Brazilian Intellectual Property Magazine (RPI) is crucial for the defense of clients' rights, allowing the filing of Oppositions (Trademarks) or Examination Oppositions (Patents) against third party applications, as well as for the monitoring of the procedural status itself.
- **Deadline Surveillance:** The loss of deadlines (issuance of GRU, payment of annuities, manifestations, appeals) may lead to the filing or extinction of the right, and the management of procedural deadlines is essential.
- **Cancellation/Nullity:** In cases of improperly granted registration/patent, Brazilian PTO or third parties may initiate Administrative Cancellation Proceedings (Trademark) or Cancellation Action (judicial or administrative - Patent), with specific deadlines for contestation.

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