

Accelerated and Simplified Granting of Brazilian Patents

By Gabriel Leonardos

On August 2017 we sent a Newsletter explaining that the Brazilian Patent & Trademark Office – BPTO is preparing a regulation in order to reduce the backlog of patent applications awaiting examination, currently around 227,000 applications. Please see such news in the following [link](#).

Currently there are 28,000 patent applications being filed per year with the BPTO, thus the inventory of applications awaiting examination is larger than accumulated 8 years of filings. In a recent publication, the BPTO informed that in Brazil the average delay between filing and the publication of a favorable examination decision is longer than 10 years, and the longest delays are in the areas of telecommunications (almost 14 years), pharmaceuticals (longer than 13 years) and electronics (longer than 12 years).

The new regulation being drafted provides for a simplified granting of patents, without an examination of the merits of the application with regard to novelty and non-obviousness of the invention. It is estimated that approximately 200,000 applications will fall in such new procedure, with the need of the immediate payment of examination fees* and final fees for the issuance of the patent, something that may trigger a large disbursement for clients with a high number of pending applications. We also note that pharmaceutical patents will be excluded for this new procedure.

(*) it has been announced that examination fees will need to be paid even though there will be actually no examination being done.

It is not yet known the final text of the new procedure, nor even if it will be indeed adopted, also because several groups of interest are exercising political pressure against it. Notwithstanding, the Federal Minister for Industry, Foreign Trade and Services has recently formally announced that the new regulation will be enacted until the end of January, 2018. Once it is published, there will be short deadlines for us to perform several acts in relation to the patents of interest for our clients.

Thus, we hereby warn our clients for this possible scenario of simplified granting of patents, and as soon as the new regulation is officially published we will update you on this regard, so that all necessary decision be taken with the utmost speediness.

Should you wish to receive advice on this matter please contact the partner of our firm who regularly handles your matters, or write us in the email address: mail@kasznarleonardos.com