

BRAZIL
Manual of Trademark Examining Procedure
Revised in November 27, 2024

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1. General provisions

1.1 Rules Applicable to Trademark Examination

The following rules apply to trademark examination:

- **The Federal Constitution:**

Article 5 - ...

XXIX - the law shall ensure the authors of industrial inventions, a temporary privilege for their use, as well as protection of industrial creations, of ownership of trademarks, of company names and of other distinctive signs, in view of social interest and the technological and economic development of the country;

- **Treaties and conventions to which Brazil is a signatory:**

- **Paris Union Convention (CUP)**

- **the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)** that the TRIPS agreement does not have self-administered standards for the examination of trademarks but creates a series of obligations assumed by the Brazilian government to establish a minimum level of protection in the field of intellectual property in domestic law on the subject: and Madrid Protocol: The provisions of the Madrid Protocol and its Common Regulations apply only to applications processed under the Protocol. Additional information can be found in Chapter 11 of the Madrid Protocol.

Law No. 9,279/1996 - Industrial Property Law (LPI), of 14/05/96. Every rule that has a link or relationship with the Law of Industrial Property, in its broadest sense, although contained in other legislation, such as civil and commercial laws and regulations concerning copyright.

1.2 Official means of communication

The INPI official means of communication is the Journal of Industrial Property (Revista da Propriedade Industrial: RPI), available on the Institute's website, in PDF format.

The publication of the RPI occurs every Tuesday except for public holidays, when it is published on the first working day thereafter. The observance of the date of publication in the RPI is important as it begins the count of the legal deadlines for applications, registrations and trademark applications.

INPI also offers the RPI in XML format in order to assist with the

reading of the data published in the journal by particular systems management and monitoring processes. This format, however, is not the official means of publication of INPI.

There are also other unofficial means and accessories to the information, such as searching on the basis of trademark and module in 'My Orders' described in item 3.10 Follow Up processes.

1.3 Protocols for applications and petitions

Trademark registration petitions or applications can be submitted to the INPI exclusively online, through the e-Marcas system, available on the INPI portal.

Filing petitions for registration applications in the multi-class system, as well as for the division of trademark registrations or applications, are not yet available in the e-Marcas system.

1.4 Filing Date and Time

The filing date and time for applications will be the same as the submission date of the electronic form and will be available on the respective application submission receipt.

1.5 Legitimacy for practice of acts

Individuals or legal entities domiciled in Brazil

Action may be taken against INPI, individuals or legal entities domiciled in the Brazil, regardless of them having an attorney or not.

For individuals or legal entities under private law, the legitimacy to file for goods or services mark registration or transfer of ownership depends on the lawful and effective exercise of an activity compatible with the goods or services the sign intends to identify, pursuant to art. 128, § 1 of the LPI. Additional information can be found in item 5.5 Analysis of applicant's legitimacy.

For collective and certification marks, there are special conditions for application set out in art. 128, §§ 2 and 3 of the LPI, according to information contained in item 5.5.5 Collective Marks and 5.5.6 or certification Marks.

Individuals or legal entities domiciled abroad

Applicant's resident abroad is to have a legal representative in Brazil, with power of attorney that includes powers to receive subpoenas, as established in art. 217 of the LPI.

The legitimacy to apply for registration of goods or services mark or transfer of ownership depends on the lawful and effective exercise of an activity compatible with the goods or services that the symbol aims to indicate, in accordance with art. 128, § 1º of the LPI. Additional information can be found in items 5.5 Analysis of applicant's legitimacy.

For collective trademarks and certification, there are also special conditions for the application set out in art. 128 §§ 2 and 3 of the LPI, in accordance with information contained in items 5.5.5 Collective marks and 5.5.6 Certification marks.

The Power of Attorney

The power of attorney is a document by which the applicant(s) elect(s) a legal representative to represent their interests before the INPI.

For this document to be considered valid by the body, it is necessary to contain data on the grantor(s), the grantee, the powers being granted, and the date, location and signature of the grantor(s). This power of attorney must be written in Portuguese and, if the original is in another language, the user must submit their translation, without the need for consular legalization and notarization of the submission.

If the power of attorney is not submitted in due time, the application will be definitively shelved, as set out in the second paragraph of art. 216 of the LPI. Additional information on the examination of the power of attorney instrument can be found in item 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

Trademark Registrations or Applications Under Co-Ownership

All applicants must effectively and lawfully engage in an activity compatible with the goods or services the sign is intended to identify. The same condition must be met in transfers of ownership of trademark applications or registrations under co-ownership.

As provided for in Art. 57 of INPI Ordinance No. 8 of January 17, 2022, except in cases of opposition, administrative nullity, or request for revocation, in trademark applications under co-ownership, the acts before the INPI must be performed jointly by all joint owners, applicants, or their respective attorneys, or by a sole attorney, who must have the authority to represent all joint owners or applicants. When not performed by a sole attorney, the acts must be signed by all joint owners, applicants, or their respective attorneys.

To prove joint performance of acts, documentation must be presented that contains the signatures of all applicants or their respective attorneys.

Additional information is available in item 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

If no sole attorney is appointed and the application is filed by the attorney of one of the applicants, the attorney who filed the trademark application in e-Marcas will be noted in the file for purposes of registration and publication by the INPI. Therefore, INPI publications regarding the process will refer only to this attorney.

If the filing is filed by one of the applicants, no information regarding the attorney will be noted in the file, even if the other applicants are represented by an attorney.

1.6 Deadlines

The deadlines set out in the LPI, as a general rule, start to be counted from the date of publication in the RPI.

The count begins on the first working day after publication and is based on continuous days.

After the end of the stipulated deadline, the right to carry out the action expires, except when it meets the appropriate return deadline, in accordance with art. 221 of the LPI and INPI/PR Ordinance No. 049/2021, by an unforeseen event, beyond the control of the party, that prevents it from carrying out the action.

1.7 Fees and charges

Fees and charges for INPI services are shown in Fees & Charges Table, available on the INPI website.

On the Fees & Charges Table, the values are different for paper applications and electronic applications. The latter benefits from a discount.

Pursuant to INPI/PR Resolution No. 251/2019, of October 2, 2019, the following benefit from the discount; individuals (only if they do not hold an equity interest in a company in the sector to which the item to be registered belongs); microenterprises, individual microentrepreneurs, and small businesses, as defined in Complementary Law No. 123, of December 14, 2006; cooperatives, as defined in Law No. 5,764, of December 16, 1971; educational and research institutions; non-profit entities; as well as public agencies, when referring to their own acts. The discount does not apply to all services.

In petitions relating to processes under a co-ownership regime, to be entitled to discounts, all applicants must meet the criteria established in INPI/PR Resolution No. 251/2019.

Fees are paid through the Federal Revenue Collection Form (GRU), the INPI's tax collection document.

If unnecessary fees have been paid, the applicant may request a refund by submitting a specific petition. This is an exempt service (Code 801) found in the Fee Schedule of the INPI's Administrative Directorate (DIRAD) and must follow the procedures regulated by that Directorate, also available on the INPI Portal.

1.8 Harnessing of actions of parties

INPI harnesses the actions of the parties, whenever possible, effecting any necessary measures as provided for in art. 220 of the LPI.

1.9 User customer service

Virtual Support

Users may submit their questions and concerns through the 'Contact Us' system, a channel within the Integrated Support Platform, accessible on the home page of the INPI Portal.

In the 'Contact Us' form, the applicant must select the Subject/Area of Interest in accordance with the doubt or question:

- Systems - Service access issues: questions regarding access to e-INPI services.
- Systems - Registration, access, corrections: questions regarding login and password usage and e-INPI registration.
- Trademarks - How to Register: queries related to the procedures for applying for registration.
- Trademarks - Process Monitoring: progress information on trademark processes.
- Appeals and Administrative Nullity Processes: issues relating to applications, registrations or trademark applications on appeal or administrative nullity processes.

INPI will forward the response to the email entered in the specific field of the Contact Us system form.

In-Personal Service

The In-Person Service is a dedicated service for providing assertive guidance on the Institute's services, ensuring a more satisfactory user experience, and fostering empathy in users' relationships with the INPI. Its purpose is also to mitigate risks to public integrity and establish cohesion, uniformity, security, and institutional identity in public-private relations. In-person service may be provided at INPI headquarters, at regional offices, or remotely via videoconference.

Service must be requested through the Integrated Service Platform, accessible on the home page of the INPI portal. The message must include: the requester's identification; the subject to be addressed, indicating the act or process to which it refers; the Contact Us service protocol number for the matter; the justification for the need for in-person service; and the identification of any accompanying persons and their interest in the matter.

To request this type of service, it is essential that the matter has already been previously addressed through the Contact Us service.

An email will be sent to the user with information regarding the appointment request.

The user will be directed to one of the following options:

- **Process View:** This consists of viewing case files that are not available in the Institute's electronic systems. A specific view request must be made for each case. Requests for a view are not accepted for trademark applications not yet formalized with the INPI.
- **Guidance:** This service is intended to disseminate knowledge about technical or operational procedures and to clarify actions already taken in administrative proceedings.
- **Hearing:** A meeting between the user and the President, Directors, or Chief Prosecutor of the INPI.

Under Article 17, Section III, §2 of INPI/PR Ordinance No. 512/2019, the guidance and hearing services are subject to the discretion and availability of the request. In the event of denial, the reasoning and appropriate handling of the request will be provided.

1.10 Access to information

Law No. 12,527/11, also known as the Access to Information Act, regulated by Decree No. 7,724 of 16 May 2012, established guidelines for access to information in public administration, seeking to increase transparency and facilitate access to information for citizens.

In line with the Access to Information Act, INPI provides the following tools:

- The Journal of Industrial Property (RPI), which is the official means of communication of INPI, described in item 1.2 Official means of communication;
- My Orders module, described in Section 3.10.1 My Orders;
- Searching the database, including the display of applications, and application and registration documents, as described in item 3.10.2 Search on the basis of trademarks; and
- Integrated Service Platform service channels, such as the Contact Us System and In-Person Service, described in item 1.9 User Service.

2. What a trademark is

2.1 Definition

A Trademark is a distinctive sign whose main function is to identify the origin and distinguish them from other identical, similar or related goods or services of a different origin.

According to Brazilian law, all visually perceptible distinctive symbols are eligible for registration as a trademark, when not prohibited by law, pursuant to art. 122 of Law No. 9279/96 (Industrial Property Law).

2.2 Nature

As to its nature, marks are classified as being goods or service, collective and certification.

Trademark or Service mark

A trademark of goods and services are one used to distinguish the goods or services from other identical, similar or related goods, of different origin (art. 123, item I of LPI).

Collective Trademark

A Collective Trademark is one designed to identify and distinguish goods or services of members of a representative collective legal entity (association, cooperative, union, consortium, federation, confederation, etc.), from identical, similar or related goods or related services, of different origin (art. 123, item III, of LPI). A collective trademark has a distinctive purpose from the goods or services trademarks. The purpose of the collective mark is to indicate to the consumer that the goods or services come from members of a specific entity.

Therefore, members of the owning entity's registration may use the collective trademark, without the need for a license, provided they are set out in the regulations governing the use of the trademark. In turn, the collective mark owner may establish conditions and prohibitions of use for its members by means of a utilization regulation.

Certification Mark

The Certification Mark is that used to certify the conformity of goods or services within certain norms, standards or technical specifications, particularly regarding the quality, nature, material used and methodology employed (art. 123, item II of the

LPI). The certification mark has a distinct purpose from the goods and services trademarks. The main purpose of a certification mark is to inform the public that the goods or services identified by the mark complies with specific technical standards or norms.

In keeping with the LPI, the certification mark must only be used by third parties authorized by the holder in order to certify the conformity of goods and services with the technical requirements; i.e., it is only a third-party certification. Complying with the requirements, interested parties are able to incorporate the holder's INPI registered certification mark into their goods or service.

It should be noted that a mark of this nature may not replace or override the sanitary inspection stamps or compliance with any regulation or specific standard for goods or services established by law.

Obtaining a certification mark by whomever needs to ensure the quality of goods and services does not absolve them from the responsibility, which is that of the provider itself, thus defined in the Consumer Protection Code (Law No. 8,078/90).

2.3 Forms of submission

With regard to the graphic submissions, the marks can be classified into nominative, figurative, combined, three-dimensional and positional:

Word Trademark

A Nominative or verbal Trademark, is a symbol consisting of one or more words in a broad sense of the Roman alphabet, also comprising of neologisms and combinations of letters and/or Roman and/or Arabic numerals, providing these elements are not present as being fanciful or figurative.

THREE HUNDRED AND EIGHTY
CORONA
LASTING
XIX
Atlantic
IRREVERENT & CIA
9 E 1/5

Figurative Trademark

A figurative or emblematic trademark is a logo consisting of:
a design, image, figure and/or symbol;
any fanciful or figurative letter or numeral form, alone or accompanied by a drawing, image, figure or symbol;
words composed of letters of different alphabets of the vernacular, such as Hebrew, Cyrillic, Arabic, etc.;
ideograms, such as Japanese and Chinese.

In the last two listed cases, legal protection lies with the graphical representation of the letters and the ideogram itself and not on the word or expression that they represent, except if the applicant states in the application the word or term the ideogram represents, as long as it is understandable by a significant portion of the consumer public, in which case it will be interpreted as combined trademark.



Combined Trademark

Combined trademark, or composite, is the symbol consisting of a combination of word and figurative elements or even just by nominative elements of which the spelling is presented in fanciful or stylized form.



SONY



Three-dimensional Trademark

A Three-dimensional trademark is a symbol consisting of distinctive plastic form in itself, able to identify the goods or services to

which it applies. To be registrable, the distinctive three-dimensional shape of goods or services must be disassociated from the technical effect.



Position Mark

A position mark is considered to be one formed by the application of a symbol in a singular and specific position on a given medium, resulting in a distinctive set capable of identifying goods or services and distinguishing them from others that are identical, similar, or related, provided that the application of the symbol in said position on the medium can be dissociated from any technical or functional effect.



2.4 Legal principles

There are three fundamental principles governing trademark law:

- Territoriality
- Specialty
- Attributive system

2.4.1 Territoriality

Article 129 of the LPI enshrines the principle of territorial protection, as prescribed; "ownership of the trademark is acquired by a validly issued registration, under the provisions of this law,

with the owner being guaranteed exclusive use throughout the national territory (...)."

The protection afforded by the State does not exceed the territorial limits of the country and, only in this physical space, the right to exclusive use of the registered trademark is recognized.

Well-known trademark

It presents itself as an exception to the principle of territoriality of the protection afforded to well-known trademarks under art. 6a of the Paris Union Convention of (CUP), which provides:

Art. 6a. The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith.

For this union rule, Brazil undertakes, as a Convention signatory, to refuse or invalidate registrations that constitutes usurpation of a trademark that is regularly protected by deposit or registration in another country that is also a member of the Convention, when it is well known in that country, regardless of whether previously filed or registered in Brazil (art. 126 of the LPI).

The application of this standard may be given ex officio or at the request of an interested party, by formal submission, occurring when it deems that their reputation is sufficient enough to dispense with the production of evidence.

The procedures for opposition examination, based on Article 126 of the LPI and 6a of CUP, are detailed in section 5.12.4 Opposition based on art. 126 of the LPI.

Priority

The claim of Priority is provided for in the Paris Union Convention

(CUP), and is also covered in art. 127 of Industrial Property Law: Art. 127. An application to register a trademark filed in a country that is bound to Brazil by agreement or with an international organization, which has the effect of a national filing, shall be assured a right of priority during the periods prescribed in the agreement, and the application shall neither be invalidated nor prejudiced by reason of any facts which occur during these periods.

Such a mechanism allows the priority date of the application in Brazil to be the same as the foreign application or registration, provided that the following conditions are met:

- a) The applicant has up to six (6) months from the date of first filing, in a country that is signatory to the CUP, to file an identical application for registration in Brazil;
- b) The claim to priority shall be made at the time the application is filed and may be supplemented within 60 (sixty) days by other priorities that precede the filing date in Brazil.
- c) The claim to priority shall be evidenced by a proper document of origin, containing the number, date and a copy of the application or registration, accompanied by a simple translation, the contents of which will be the entire responsibility of applicant.
- d) When not filed together with the application request, a document evidencing priority must be submitted within 4 (four) months counted from the filing date, under penalty of loss of the priority and subsequent republication of the application.
- e) In the event that priority has been obtained through assignment, the corresponding document must be filed together with the priority document itself.

In applications for trademark registration under a co-ownership regime with a priority claim, if the group of applicants is different from the group of holders of the foreign application or registration, a document certifying the assignment of priority must be submitted, signed by all holders of the foreign application or registration.

Instructions for examining applications are laid out in items 5.6.2 Document proving priority and 5.4.7. Specification of priority applications.

2.4.2 Specialty

The protection granted to the trademark applies to goods or services corresponding to the activity of the applicant, aiming to distinguish them from others that are identical or similar, of diverse origin.

Highly renowned trademark

It is presented that as an exception to the principle of specialty protection, trademarks considered to be highly renowned, shall be granted protection in all market segments, under art.125 of LPI: A trademark registered in Brazil that is considered highly renowned shall be assured special protection in all fields of activity.

Contrary to what is observed in the case of well-known trademarks, namely previous registration in Brazil not being mandatory to comply with the provisions of art. 6a of the CUP, this special protection, derogating from the principle of specialty, is only possible if the trademark is already duly registered under the Act, as is clear from art. 125, transcribed above.

Acknowledging the highly renowned trademark, in accordance with Chapter XIII of INPI Ordinance No. 8/2022, INPI will make a corresponding note in their records that all reproduction or imitation of the trademark, likely to cause confusion or damage to its reputation, is prohibited.

Procedures for the examination of claims based on trademarks being highly renowned, may be found in items 5.11.6 Highly Renowned Trademark, 5.12.3 Opposition based on art. 125 of the LPI and 9.6 Highly renowned.

2.4.3 Attributive system

The trademark registration system adopted in Brazil is legally attributive, i.e. their ownership and exclusive use are only acquired through registration, as defined in art. 129 of the LPI. The principle of the character of attributive right, resulting from registration, is opposed to the said declarative system, of the right to the mark, in which the right results from the first use and registration serving only as a simple approval of ownership. As a general rule, the first party to file an application should have the priority to register. However, this rule contains an exception called the right of the previous user.

Previous user

This constitutes an exception to the good faith rule that the user proves previous use, for at least 6 months, of an identical or similar mark for the same purpose, which might cause confusion or undue association, under § 1 of Art. 129 LPI:

Art. 129 (...)

§ 1. Any person who, in good faith, on the priority date or the filing date of the application, was using in Brazil, for at least six (6) months, an identical or similar mark to distinguish or certify identical, similar or related goods or services shall enjoy a right of precedence in registration.

Therefore, when the requirements above are met, they may claim the right of precedence to registration, and should, therefore, submit the applicant's opposition to a registration application made by third parties, instructing them to provide sufficient evidence that characterizes its use in Brazil, in compliance with the provisions of § 1 of art. 129 of the LPI and providing evidence of the filing of the trademark registration under the LPI.

Additional information on examination procedures of the claims based on § 1 of Art. 129 of the LPI can be found in Section 5.12.5 Opposition on the basis of § 1 of Art. 129 of the LPI.

2.5 Repression of unfair competition

The Brazilian legal system for the repression of unfair competition rests in special law and devices derived from international treaties and national legislation. No internal law defines unfair competition, the definition commonly accepted by doctrine is that consistent with art. 10a (2) of the CUP, which is expressed as follows:

Art. 10a: (...)

2 - Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition.

This Convention standard contains a non-exhaustive list of acts that must be punished as unfair competition. Among these acts, we are interested in highlighting the following:

- There is a competitive relationship between the companies or individuals due to the social activities they carry out;

- The act of depositing constitutes a practice contrary to honest practices in industrial or commercial matters;
- The challenger has the alleged right protected by specific legislation.

To apply the rules that suppress unfair competition, more specifically regarding the application of one of the means by which the legislator considered possible to protect industrial property rights (Article 2, Item V, of the LPI), the following must be taken into account in the context of the challenges presented:

- There is a competitive relationship between the companies or individuals, due to the social activities carried out;
- The act of filing constitutes a practice contrary to honest practices in industrial or commercial matters;
- The challenger has the alleged right protected by specific legislation.

The repression of unfair competition in the administrative sphere is limited to facts that may disrupt the competitive order, through the granting of industrial property rights, such as practices that are contrary to ethical competition rules through the registration of trademarks that lead to fraudulent customer diversion.

If, through the legitimization of the use of a trademark through registration, there is confusion or undue association between a competitor's establishments, goods, or industrial or commercial activities, the registration must be denied in light of the applicable legal provisions set forth in the LPI.

The rules for administrative review of the provisions set forth in Article 2, item V, of the Brazilian IP Law and Article 10 bis of the Brazilian Trademark Code are detailed in item 5.12.2 Opposition Based on Unfair Competition.

3. How to File a Trademark Registration Application or Petition

Trademark registration applications or petitions can be submitted to the INPI exclusively online, through the e-Marcas system, available on the INPI portal.

In this section, you can find the necessary information for filing applications and filing petitions, as well as guidance on tracking them.

The filing of petitions for registration applications in the multi-class system, as well as the division of trademark registrations or applications, is not yet available in the e-Marcas system.

3.1 e-INPI registration

The first step to submitting a trademark registration application or trademark petition is the e-INPI Registration, which provides access to the services of the Directorate of Trademarks, Industrial Designs and Geographical Indications.

This registration is required for any person or company who wants to request INPI services and works for all departments of the Institute. The person concerned, their lawyer, legal representative or Industrial Property agent (API) can register an electronic identification consisting of login and password to authenticate their access to the system.

It is important to emphasize that registration in e-INPI must refer to a single individual or legal entity and that, in the case of a registration request or petition submitted by a group of joint holders or applicants, all must be registered in e-INPI.

3.1.1 Completing the e-INPI registration form

Initially, you will need to access the e-INPI registration page and choose your registration mode: either as a client, for individuals or legal entities domiciled in Brazil who will file independently, or as a lawyer/attorney without special authorization, for users acting as a legal representative for others. Individuals or entities not domiciled in Brazil must observe that which is contained in section 1.5 Legitimacy for the practice of the acts.

After accepting the "terms of membership" of the e-INPI system, that constitute the general service conditions, the applicant must complete the registration form data, creating a login (username) and password.

The password must contain a minimum of 6 (six) and maximum 10 (ten) characters and may contain either letters or numbers, or both, with no spaces. Do not use special characters like & , ! , % , ? , hyphens or quotation marks. The login and password are case sensitive, i.e., the system differentiates capital letters from lowercase on your record.

Notes

a) The password is personal and non-transferable and must not be conveyed to third parties. Ideally the applicant/holder should have one password and their attorney or legal representative should have another. It is not necessary that the legal representative know the password of the applicant/principal to issue a GRU. Furthermore, conveyance of your password may cause future problems, such as unauthorized use after any eventual dismissal of your attorney.

b) You must keep your records updated in INPI, since the Institute can only contact you based on the registration information provided. Notifications of objections to the issuance of a certificate of registration, all depend upon the consistency of information provided on the applicant and/or their attorney. Therefore, any change of data, and, of course, any changes that interfere with the process during the course of proceedings with INPI, must be reported to the agency.

Instructions for completing the data form

Although the e-INPI system provides a helpful tool in completing the registration, some points require clarification in relation to the applicant's data, since some information filled in this step is automatically migrated to the electronic form of the e-Marks system.

The applicant's data - i.e. the data of the individual or legal entity requesting the trademark registration at INPI - which must appear on the form is:

Field which will appear automatically in the form:	Notes
Complete Name	The name of person (individual) or business (legal entity) complete and without abbreviations, must be filled out.

Complete address	The address should include the street name, number, district, city, UF and CEP postal code; if the applicant is resident abroad, the CEP is not necessary.
Legal nature of the applicant	The legal nature of the applicant must be filled in.
CPF or CNPJ, as is the case	The user must be careful to fill in the fields: The CPF (Individual Taxpayer Registry) must have 11 digits, as well as the CNPJ (National Taxpayer Registry) which must have 14 digits. When filling out the fields, it is important to ensure that the name or business name entered actually corresponds to the CNPJ or CPF to be registered, in order to avoid linking a CNPJ to an individual's name or a CPF to a legal entity's name.
Email	It is important that the user enters their email correctly. Similarly, it is essential that the email in question is accessed with relative frequency by the user, since the Directorate of Trademarks, Industrial Designs, and Geographical Indications may eventually contact the user through this channel.

3.1.2 Changes to the e-INPI registration Data

Registration Data changes, except those described below, can be made directly by the applicant using the GRU module available on the INPI portal.

The CPF (Brazilian Individual Taxpayer Registry) and CNPJ (Brazilian Corporate Taxpayer Registry) may not be altered, since a registration with a new CPF or CNPJ generates a new account. If a merger, incorporation, or similar event has occurred, there is a specific service for this procedure: transfer of ownership, applicable to trademark applications and previous registrations to the merger or incorporation.

To effect changes that can be made directly by the applicant, the following steps must be followed:

- a) Access the GRU module using the login and password previously created;
- b) Clicking on the name/company name, to have access to the register;
- c) Make the necessary changes;
- d) Click the "Save" button and use the link "End Session" to exit.

Upon entering the system again, the changes made to the registration will be updated.

With the integration of INPI systems with the Federal Government's Single Login, users already registered with e-INPI can also access the GRU module using their gov.br account login and password.

Any change in one of the fields described in the previous section must be made previous to the issuance of the GRU. They are migrated to the electronic form so that only the data up until the time of issuance of the GRU appears.

Changes in the register of the GRU module do not affect the applicant's or holder's data for applications filed prior to the modification of the register.

The applications or registrations that have been filed before the changes in the e-INPI system and GRU generation may only have the name, company name, registered office or address of the applicant or holder changed, by submitting a specific application and payment of fees, namely the petition under code 348 of the INPI Fees table - Annotated with the Name, Headquarters or Address Change.

3.2 Table of fees and costs of services

The fees table for services provided by the Trademark Board is available on the website of INPI and users should consult it before making their application request or petition in order to be aware of the values of each service.

It is the applicant's sole responsibility to be aware of the amount charged for the service they wish to request. If there is a change in the service fee between the date of issuance of the Federal Revenue Collection Guide (GRU) and the date of filing of the corresponding application or petition, the applicant must supplement the amount paid, in accordance with the guidelines set forth in item 3.3.1 Instructions for Issuing the GRU. In this case, failure to provide additional information will result in a claim being filed.

3.3 Issuing of GRU

After registering with the e-INPI System, the user must access the GRU module to generate the Federal Tax Collection Guide for the service requested from the Trademark Directorate. This must be paid before submitting the trademark registration application or petition form, in accordance with Article 5 of Resolution No. 026/2013, which establishes the TRADEMARKS module of the Electronic

Industrial Property Management System, otherwise they will be disregarded.

As a general rule, each GRU will be used to request a specific service, with the corresponding form protocol. Exceptions to this rule are services exempt from a form and additional fees.

The GRU must be issued even when the service is exempt from payment.

3.3.1 Instructions for issuing GRU

After completing the registration in the e-INPI system, the user must access the GRU module to generate the tab corresponding to the desired service as follows:

- a) In the Basic Trademark Guide, on the INPI portal, the user must click on the Issue and pay the GRU link, then fill in the login and password fields, previously registered.
- b) On the issue page, you must select the option in the Unit field.
- c) Then simply choose the desired service by entering its code (example: 389, 349, 377) and hit Enter; or choose the service looking for their name in the corresponding box.
- d) At this point, you must provide other requested information, which varies depending on the type of service.
- e) A window appears with a preview of the requested service; the user should review the desired service, as well as the information provided, such as the presentation or nature of the trademark, or the cost of the service in question. To finish, the user should click **Generate Invoice**; if they made a mistake choosing the service or filling out any other information during this step, click the **Cancel Service** button.

The user should only click the **New Service** button when performing another service for the selected unit. When the GRU is completed, the user should click the **Exit System** link to free up system resources for other users.

As an alternative to generating a payment slip through the bank network, users can debit their account through Pix or pay with a credit card. If users choose not to generate a GRU payment slip, their reference number must be saved for use in filing petitions. Please note that Pix cannot be used as a direct credit to the Institute's checking account.

With the integration of INPI systems with the Federal Government's Single Login, users already registered with e-INPI can also access the GRU module using their gov.br account login and password.

Note:

If you want to demand the same service more than once, you should not reuse the tab: just reselect the service in a same manner so that a new GRU is issued.

Guidelines for filling out fields**'The Object of the Petition refers to' field:**

When generating the Fee Payment Form for the petition submission, in some cases, you will be asked to fill out **'The Object of the Petition refers to'** field, as well as the **'Administrative Procedure'** field.

Peticionamento:	Eletrônico ▼	<i>Informe como será a apresentação do serviço, em Papel ou Eletrônica.</i>
O objeto da petição se refere a:	Especifique melhor o Objeto do serviço. ▼	<i>Detalhe mais o objeto da petição escolhida.</i>
Processo Administrativo:		<i>Informe o Número do Processo ao qual o serviço se refere.</i>

Confirma

'The Object of the Petition refers to' field has two filling out options: in the registration process or in the petition. The option in the registration process must be checked if the requested service refers to an application or trademark registration. For example, the service **compliance requirement** related to an INPI requirement for the user to restate application or goods specification according to the International Classifier.

The option in a petition, in turn, must be checked if the requested service concerns a petition. Continuing the example above, the service **compliance requirement** can be related to an application, when submitting additional documents as a result of a petition for transfer of ownership.

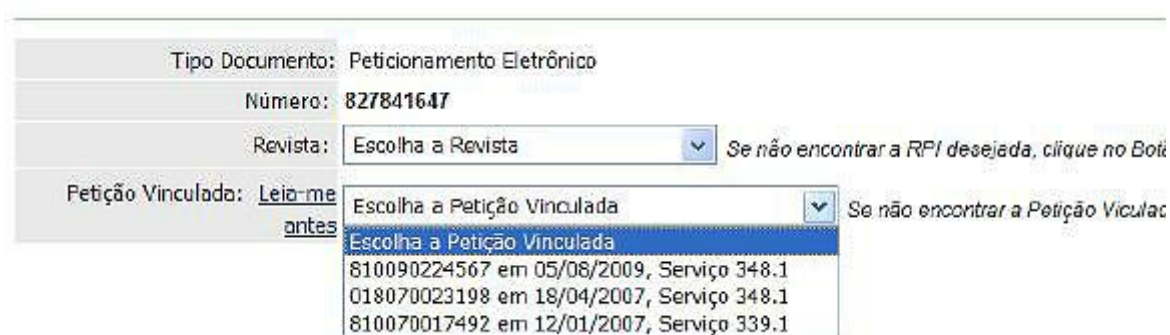
In both cases, the user must complete the administrative **process field**, just below the petition object field, with the case number referred to in the requested service.

Example: The RPI published a requirement for filing an appeal or administrative nullity petition. In this case, to comply with the requirement, the user must select the petition option. If the user wishes to submit priority documents or the power of attorney related to the application, they must select the registration process option.

Note: It should be remembered that the descriptive tables for all services, their applications and objects to which they refer are available in item 3.7 Explanatory Tables relating to petitions. When the service referring to an act published in the RPI, such as a compliance requirement, also appears the magazine field that, in turn must be filled in with the RPI number in which the said act was published.

Linked petition

When the user issues a GRU for petition submission and chooses the 'in petition' option in the petition object field, it will open a new Linked Petition field, as per the image below.



Tipo Documento:	Peticionamento Eletrônico
Número:	827841647
Revista:	Escolha a Revista ▼ Se não encontrar a RPI desejada, clique no Botão
Petição Vinculada:	Leia-me antes ▼ Se não encontrar a Petição Vinculada
Escolha a Petição Vinculada 810090224567 em 05/08/2009, Serviço 348.1 018070023198 em 18/04/2007, Serviço 348.1 810070017492 em 12/01/2007, Serviço 339.1	

The filed petitions for that process appear in this field. The user must select only the earlier petition already filed, linked to this service relating to the GRU requested. If the linked petition is not among those listed, the user must click the confirm button, so that a field is available for manual filling. Then simply finalize and issue the corresponding GRU to the service required.

Supplementary Payments

Payment Tables for smaller amounts, including on the occasion of changes in the INPI Compensation Table may be supplemented prior to the submission of the application or petition to avoid requirements in this respect.

After accessing the GRU module with their username and password, or through the Federal Government's Single Login, the applicant must select a unit such as General Administration and fill in the service code 800, or select **"Complementation of Remuneration"** option. The applicant must select the number of the previously paid guide and enter the amount to be supplemented, then click "Confirm." After payment of the supplement, a copy of the proof of payment

must be sent as an attachment to the request or petition. It should be noted that, in the field designated for filling in the GRU number, the GRU number for the main service must always be entered, and never the GRU number for the supplement, which will only be included in the form as an attachment.

Notes:

- In order to be completed, the GRU must have been paid and reconciled. If you have already paid the GRU and want to supplement it, the user must wait until the day after the payment when it is already reconciled and will appear in the list of GRUs paid;
- A GRU must be supplemented by the same applicant which issued it; otherwise, the former GRU will not be found;
- When the completion of the payment is requested by formal demand, a simple payment from the supplementary table is not set up as a response. Compliance with the requirement shall be considered as such after the timely submission of specific request for such a purpose.
- Supplementary tables are not filed. If the applicant wishes that the payment receipt be recorded the case file, they should present it through a specific application, with the service code 381 - Document Submission.
- If the supplementary payment has not been made voluntarily by the user and therefore becomes subject to formal demand, the amount to be supplemented shall correspond to the difference necessary to reach the value of service in force on the date on which the demand is met.

3.4 GRU payment

The Union Payment Form having been issued by the GRU system, the user should note the following:

- a) The payment of the GRU in the banking system shall be performed by sending the electronic form, under penalty of the requested service not being considered;
- b) Although the generated GRU contains the **information** "Upon Presentation" in the Due Date field, the user must make payment by the date they intend to file the application. A GRU due date has no relation to administrative delays and these must be strictly observed by the applicants according to the terms of the Law of Industrial Property;

- c) The issuance of the GRU, which corresponds to the selection stage of the desired service, must be carried out **by the applicant or his/her attorney/industrial property agent** (or representative of the latter), never by third parties. For this reason, access to the system is conditional on the prior identification of the user. Thus, except for the pre-existence of an Industrial Property Agent, the user name that accesses the system for the selection of service and the consequent issuing of the GRU will include a printout of the amount generated by linking the user in question to the action taken;
- d) It should be noted that for purposes of validity of actions taken by the user that depending on supplementary payment, the intended service will be considered as effectively paid only after a bank reconciliation of the respective GRU.

As an alternative to generating a payment slip through the bank network, users can debit their account via Pix or pay with a credit card. If users choose not to generate a GRU payment slip, their reference number must be saved for use in filing petitions. Please note that Pix cannot be used as a direct credit to the Institute's checking account.

3.4.1 Payments outside of banking hours

Trademark registration application

For purposes of payment of related fees for the filing request for trademark registration, **the banking date** is considered as the effective payment date, even though it may have been made at times or during days which are outside of normal bank trading hours, provided that it is effectively proven.

So where banking for the payment request is made by the date of submission of the electronic form, but outside normal bank trading hours, the user must send as an attachment to the e-form registration application, a scanned copy of the proof of payment of the Union Payment Form (GRU) clearly containing the GRU number, the payment date and legible banking authentication.

All applications for trademark registration are subject to a formal examination. If you have not attached the above proof or there is need to clarify doubts about the effective date of payment, a formal demand for this purpose may be made, to be honored within five calendar days from the date of publication of the formal demand.

In cases of non-compliance within the legal deadline, the application will be considered non-existent, that is, the request will not be processed.

Bank statements are not accepted as proof of payment.

Electronic Petitions

For purposes of payment for electronic petitions, **the banking date is considered as the effective payment date.**

Therefore, in cases where banking of the payment for the petition is made by the date of submission of the same, but outside of normal bank trading hours, the user must send scanned proof of the payment of the Union Payment Form (GRU) as an attachment to the electronic application form, clearly containing the GRU number, the payment date and legible banking authentication.

Petitions may be subject to formal compliance examination requirements, especially those sent copies of scanned GRU receipts, in order to clear any doubts regarding the effective date for payment.

Compliance with any requirement must be submitted within sixty (60) days from the issue date of the formal demand, under penalty of the electronic petition not being considered due to lack of payment. Bank statements are not accepted as proof of payment.

3.5 e-Marks, electronic petitioning

To access the electronic application and petition forms, the user must first register in the e-INPI system and generate a guide corresponding to the requested service, then access the electronic form using a login and password.

It is also essential that, before starting to fill in the form, the user reads the Industrial Property Law (LPI) No 9279/96, as well as all the items in this section, in order to obtain further information on how to act with the Directorate of Trademarks, Industrial Designs and Geographical Indications.

3.5.1 Access to electronic form

To access the electronic form, users must log in to e-Marks, enter their username and password, and click Access. With the integration of INPI systems with the Federal Government's Single Login, users

already registered with e-INPI can also access the electronic forms using their gov.br account username and password.

Once in the system, the user must enter the GRU number duly paid (also called "our number") in the corresponding field, then click Next.

It should be noted that GRU numbers for services exempt from the requirement of a petition, as specified in item 3.8 Services exempt from the requirement of a form, nor GRU numbers for supplementary payments, as described in item 3.3.1 Instructions for issuing the GRU. In the case of supplementary payments, the GRU number of main service, of which the value is being supplemented, should be entered. The supplementary guide must follow as an attachment of the electronic form.

The user has thirty (30) minutes to fill out the electronic form. If the session time ends during the filling out of the form, the information released up to that point will be saved simply by the user logging in again to continue filling out the form.

Formulário Eletrônico

Seja bem-vindo | [Sair do Sistema](#)

Sr(a) Requerente,
Antes de preencher os dados relativos ao seu Pedido de Registro de Marca ou Petição é necessária a emissão e o pagamento da Guia de Recolhimento da União (GRU), através da qual será solicitado o serviço a ser efetuado pelo INPI. No caso de estar solicitando a 2ª via do recibo, o mesmo somente será disponibilizado se o usuário logado for o requerente, seu procurador ou um procurador do escritório contratado.



[Não possui sua GRU ? gere sua guia aqui](#)

Nosso Número (nº da GRU):

Notes

It should be remembered that it is through the GRU number that the Directorate of Trademarks, Industrial Designs and Geographical Indications confirms the request for services, and a bank reconciliation of the respective payments, it is therefore fundamental that payment data be entered to enable the eventual recovery of the duplicate receipt.

3.5.2 Filling in e-form

By entering the GRU number in the appropriate field, the user has access to the trademark registration electronic application form. The form migrates information regarding the applicant and the attorney (if applicable) from the GRU.

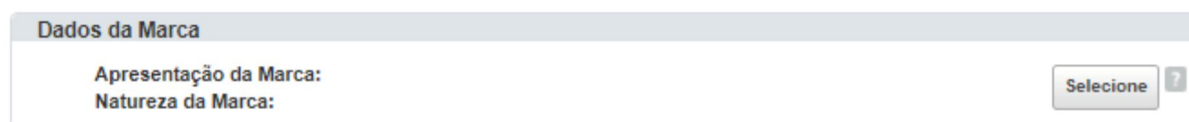
The data for the attorney, if any, reproduces the information registered by the lawyer/industrial property agent themselves, for identification at the time of issue of the GRU. Thus, if access to the e-form is carried out by the attorney, the form will have two (2) basic pieces of information: a field related to the applicant's data and another related to the Attorney's data. There are cases where the attorney is registered in an industrial property office, which also appears in e-form.

For applicants who do not have legal representative, it will be a General Data session, in simplified form, without the attorney and office fields.

Instructions for filling in the fields

Presentation and nature of the trademark:

The applicant must complete the fields regarding the presentation and nature of the trademark. Additional information can be found in section 2. What is a trademark.



The screenshot shows a form titled "Dados da Marca". It contains two labels: "Apresentação da Marca:" and "Natureza da Marca:". To the right of these labels is a button labeled "Selecione" with a question mark icon.

Nominative element of the trademark:

The user must fill in the nominative element of the brand, whether its presentation is word or combined, as shown in the following figure:



The screenshot shows a form titled "Dados da Marca". It contains several fields and options: "Apresentação da Marca:" with a dropdown menu showing "Mista"; "Natureza da Marca:" with a dropdown menu showing "Serviço"; "Elemento Nominativo da Marca:" with a text input field and a question mark icon; a checkbox labeled "Marca possui elementos em idioma estrangeiro."; and "Imagem Digital da Marca:" with a button labeled "Adicionar" and a question mark icon. There is also an "Alterar" button with a question mark icon.

If the trademark is three-dimensional and there are no verbal elements to be reported, completing this field is not mandatory. If the trademark contains any elements in a foreign language, the user must indicate their translation. In combined or three-dimensional trademarks, elements not related to the trademark itself should not be indicated in this field. Additional information on negligible elements can be found in item 5.9.1 General guidelines for analysis of distinctiveness, **subitem Elements** of the trademark, topic **Negligible elements**.

If there is a discrepancy between the nominative element contained in the trademark image and that declared by the user, the element stated in the image will prevail. The Directorate of Trademarks, Industrial Designs, and Geographical Indications may make any necessary corrections to ensure the application is published without discrepancies. If the applicant submits a trademark image whose presentation differs from that described in the electronic form, the presentation will be corrected, with the image stated in the trademark image always prevailing.

The trademark in the submitted image may not be altered after its filing, even if the application is subject to a requirement regarding legibility, or for any other reason that requires the submission of a new image. If the image is resubmitted, the trademark must correspond to the sign initially filed, and its original distinctive character may not be altered.

However, there are some specific circumstances in which modification of the originally registered signal is permitted:

- Typographical errors in the word mark;
- Discrepancy between the mark image and the declaration of the nominative element;

With regard to typing errors by the applicant, changes will only be made to the originally claimed mark if the error remains characterized and it is intended to register the correct signal. The correction request must be made by the person concerned using a data correction request for the process, due to the failure of the applicant, under service code 378 on the Table of Fees.

It is worth noting that the characterization of the typing or filling error should be made with the aid of documents, such as

proof of priority or proof of previous use of the trademark, or even a previous registration containing the intended nominative element.

Digital image of the mark

Where the trademark is figurative, combined or three-dimensional, the user will be required to attach the document containing the digital image of the mark by means of the Add button. At any time before the submission of the form, the user can remove the displayed image and attach another. For this, you must click on the corresponding button for removal.

Remember that without the digital image, sending the e-form of the registration application is not possible.

It is mandatory for the user to observe technical specifications for the transmission of images through the e-form:

Valid file format	JPG
Minimum size	945 x 945 pixels (8 cm x 8 cm)
Minimum resolution	300 dpi
Maximum file size	2 MB

The image sent must effectively match the intended mark and must be contained in a frame size of 8 cm x 8 cm:

In addition to the above specifications, the applicant should note:

a) When preparing the file, the user must use only a single image related to the requested mark. Therefore, files that contain duplications or variations of the same figure, or any other elements that may impair the intelligibility of that which the user intends to apply to the mark, will not be accepted;

b) The submitted image must meet the clarity requirement necessary for the full identification of the figurative components of the mark, which even applies to the nominative elements of combined or three-dimensional mark, written next to the image;

c) If the user sends a color image as a means of identifying their trademark, they should be aware that this option is equivalent to claiming the color, which necessarily include the registration of the mark applied for, in the event that it is granted. In this case, it is not necessary to claim colors by using indicating arrows; and

d) The image must not contain any erasures.

Digital Image of the three-dimensional mark

If the requested trademark presentation form is three-dimensional, the user must attach, as the main image, a single perspective view of the object. Other views of the object (rear, front, top, bottom, and sides) should be attached subsequently, in order to allow sufficient understanding of the form for which trademark protection is sought. The applicant must also attach a brief description of the mark, indicating its main characteristics.

The electronic form has a specific field for attaching the digital image of the mark and others for attaching the views of the object. The views must also be attached separately in JPG format.

It should be noted that the technical specifications described above for **the Digital Image of the Mark** field apply to **the Views and Perspectives** field.

Digital image of the position mark:

The main image attached to the position mark registration application must show the support, representing the exact positioning and proportion of the applied sign. If the applicant deems it necessary, other images of different views of the support may be attached to the application to provide a clear understanding of the intended position mark protection.

The support must be represented by dotted or dashed lines. The sign applied to the support, in turn, must be indicated by solid lines or filled areas.

The electronic form has a specific field for attaching the digital image of the trademark and others for attaching views of the object. The views must be attached separately, also in JPG format.

It is noteworthy that the technical specifications described above for the **Digital Image** field **of the Mark** shall apply to the **Views and Perspectives** field.

Specification of goods or services

The specification of goods or services refers to goods or services that the mark is intended to identify. All goods or services chosen

should be classified in only one class. The choice of the class that identifies the goods or services actually provided by the applicant is very important since the classification is a relevant administrative tool, particularly with regard to the search for previous registrations. It is worth noting that the International Classification of Goods and Services and its auxiliary lists are available for download on the INPI portal.

When the electronic form of trademark registration application is generated under the 389 code of the INPI Fees Table for the trademarks of goods or services, or collective marks, in this field, the user must select a single class and the items of the specification in which the goods or services is designated by the trademark.

To assist users in finding the desired class and specification, the form provides search and selection tools. Thus, the user can search by consulting the list of items, organized by class, or by using keywords.

Clicking **Show Class List** displays lists of international classes, including a brief description of each class. All 45 international classes are available:

Busca de Especificação de Produtos ou Serviços

Digite um termo para filtrar

- Classe 1 - Substâncias químicas destinadas à indústria, às ciências, à ... ?
- Classe 2 - Tintas, vernizes, lacas; preservativos contra oxidação e cont... ?
- Classe 3 - Preparações para branquear e outras substâncias para uso ... ?
- Classe 4 - Graxas e óleos industriais; lubrificantes; produtos para abso... ?
- Classe 5 - Produtos farmacêuticos, medicinais e veterinários; preparaç... ?
- Classe 6 - Metais comuns e suas ligas; minérios; materiais de metal pa... ?
- Classe 7 - Máquinas e ferramentas mecânicas; motores (exceto para v... ?
- Classe 8 - Ferramentas e instrumentos manuais (propulsão muscular); ... ?
- Classe 9 - Aparelhos e instrumentos científicos, náuticos, geodésicos, f... ?
- Classe 10 - Aparelhos e instrumentos cirúrgicos, médicos, odontológic... ?
- Classe 11 - Aparelhos para iluminação, aquecimento, produção de vap... ?
- Classe 12 - Veículos; aparelhos para locomoção por terra, ar ou água. ?
- Classe 13 - Armas de fogo; munições e projéteis; explosivos; fogos de ... ?
- Classe 14 - Metais preciosos e suas ligas; joias, bijuteria, pedras preci... ?

Using the **Enter a term to filter** field, located in the upper left corner, the user can search using keywords. In this case, the search will return items belonging to any class.

The user can also click on the summary description of the desired class to view the list of items belonging to that class. In the example below, the user clicked on the explanatory text for class 15, displaying a list of all items related to that class:

Busca de Especificação de Produtos ou Serviços

Classe 3 - Preparações para branquear e outras substâncias para uso ... ?

Classe 4 - Graxas e óleos industriais; lubrificantes; produtos para abso... ?

Classe 5 - Produtos farmacêuticos, medicinais e veterinários; preparaç... ?

Classe 6 - Metais comuns e suas ligas; minérios; materiais de metal pa... ?

Classe 7 - Máquinas e ferramentas mecânicas; motores (exceto para v... ?

Classe 8 - Ferramentas e instrumentos manuais (propulsão muscular); ... ?

Classe 9 - Aparelhos e instrumentos científicos, náuticos, geodésicos, f... ?

Classe 10 - Aparelhos e instrumentos cirúrgicos, médicos, odontológic... ?

Classe 11 - Aparelhos para iluminação, aquecimento, produção de vap... ?

Classe 12 - Veículos; aparelhos para locomoção por terra, ar ou água. ?

Classe 13 - Armas de fogo; munições e projéteis; explosivos; fogos de ... ?

Classe 14 - Metais preciosos e suas ligas; joias, bijuteria, pedras preci... ?

Classe 15 - Instrumentos musicais. ?

Classe 16 - Papel, papelão; material impresso; artigos para encaderna... ?

Classe 17 - Borracha, guta-percha, goma, amianto, mica e substitutos ... ?

15 - Acoche [instrumento musical]

15 - Acordeões

15 - Aparelhos para virar páginas de caderno de música

15 - Apito usado como instrumento musical

15 - Apoios de queixo para violinos

15 - Arcos para instrumentos musicais

15 - Baixos

15 - Balalaikas [instrumentos de cordas]

15 - Bandolins

15 - Bandônios

15 - Banjo

15 - Banjos

15 - Baquetas de tambor

15 - Baquetas do tipo mallet, para instrumentos musicais

15 - Bateria [instrumento musical]

15 - Baterias robóticas [instrumentos musicais]

15 - Batutas

15 - Berimbau de boca

15 - Bico de clarinete

15 - Bocal para instrumento musical

15 - Bombo [instrumento musical]

15 - Bongô [instrumento musical]

Salvar

The user can select, one by one, all the goods that the trademark seeks to protect.

Using the **Enter a term to filter** field in the upper right corner, the user can search using keywords. In this case, the search will return items belonging to the selected category.

Once the specification of goods or services that the brand aims to highlight has been selected, the user must click on the Save button, confirming the chosen goods or services and saving them in the electronic form.

It is worth remembering that the use of pre-approved terms from the Nice International Classification and the auxiliary lists made available by the INPI will eliminate the need for a specification adequacy analysis request, potentially speeding up processing. The use of expressions not included in the list of pre-approved terms is permitted only in paper registration application forms or in electronic registration application forms with free specification.

Electronic Application with Free-Fill Specification

The electronic trademark registration application service with free specification is under code 394 of the INPI Fee Schedule. This service is only applicable to product or service marks and collective marks.

If the user chooses this service, in addition to the possibility of including pre-approved items from the International Classification of Goods and Services, a field for filling in the free specification will be provided in the electronic form.

By clicking on **Show class list**, the lists of international classes are displayed, containing a brief description of each class. The user must click on the desired class so that the field for filling in the free specification relating to this class is made available in the upper right corner, as shown in the following example, in which the user wishes to include items belonging to class 10.

The screenshot shows a web interface titled "Busca de Especificação de Produtos ou Serviços - Livre Preenchimento". It features a search bar with the placeholder "Digite um termo para filtrar" and buttons for "Pesquisar" and "Limpar". Below the search bar is a list of 14 international classes. Class 10, "Aparelhos e instrumentos cirúrgicos, médicos, odontológicos...", is highlighted with a red arrow. To the right of the class list, a red box highlights the "Especificação livre:" field, which is currently empty. Below this field is a section titled "Opcionalmente, selecione itens da Classificação de Nice e listas auxiliares:" with a search bar and "Pesquisar" and "Limpar" buttons. A list of items from Class 10 is displayed, including "10 - Abaixador de língua para fins médicos", "10 - Abre-boca [instrumento odontológico]", "10 - Acolchoado para muleta", "10 - Adesivos de restrição para uso medicinal", "10 - Aerosóis para uso medicinal", "10 - Afastador cirúrgico", "10 - Agrafos [grampos cirúrgicos]", "10 - Agulha cirúrgica", "10 - Agulha epidérmica", "10 - Agulha hipodérmica", "10 - Agulha para odontologia", "10 - Agulha para seringa injeção", "10 - Agulhas de acupuntura", "10 - Agulhas para sutura", "10 - Agulhas para uso medicinal", "10 - Alavanca cirúrgica", "10 - Algália [sonda para extração de urina ou para exame de cálculos vesicais]", "10 - Algalias [sonda, cateter] cirúrgicas", and "10 - Alimentadores para bebês". A "Salvar" button is located at the bottom left of the form.

It is important to emphasize that the specification can be composed simultaneously of pre-approved items and free-text items. To do so, simply select the desired items from the list of pre-approved items, complementing the specification with the free-text items.

Although completion of the specification field is free-form, in order to avoid mistakes in the specification of goods or services, users should be guided by the classification tables available on the INPI portal, looking for analogies for the best framework of goods or services.

As stipulated in Article 7, sole paragraph, of INPI Ordinance No. 8/2022, any attachments containing specifications will not be accepted by INPI. All free specifications must be entered only in the specific field of the trademark registration application form with free specifications.

Certification Mark:

It's worth noting that it's not possible to issue a GRU for service 394 for filing a certification mark. In such cases, the code to be used is 389, which already has a field for free-filling the specification.

In the case of a certification mark, the goods and/or services to be certified must be specified in a specific field. It should be noted that, for classification purposes, the certification service is automatically and exclusively classified in Class 42.

It is important to emphasize that it is not permitted to apply for the registration of both a certification mark and goods or services in the same application.

Goods and services not found

The Nice tables for classification of goods and services and their auxiliary lists are relatively extensive, although not exhaustive. There is a high possibility that the user will find an example of their goods or service in the classification lists. However, in case goods and services is not in a literal way in the tables of the form, it is advisable that the framework is made by analogy to the goods and services already listed in the Nice Classification or Auxiliary List. This analysis should be made so that the selected item more faithfully reflects the desired goods or service.

If careful research is not found in the classification lists, the correct class is not found, the user can submit a paid query to the Goods and Services Classification Committee, as described in Section 10.1.1 Inquiry the Goods and Services Classification Commission.

Declaration of activity

In accordance with Article 128 of the Industrial Property Law, it is necessary that, in the case of private persons requesting goods or services trademark, they declare, in a straightforward manner, under penalty of law, the effective and lawful exercise of the applicant's activity or those of directly or indirectly controlled companies, at the time of submission.

When a mark undergoes certification, it is necessary that the applicant does not have any direct commercial or industrial interest in the goods/services claimed. In cases of trademarks of a collective nature, it is necessary that the applicant is a representative of a collective.

Note

Documents containing information relating to the applicant's activity, such as articles of incorporation, minutes of the company's constitution or the company's corporate purpose, although possibly not attached to the application for registration submission, shall be held by the user, since INPI may, at any time, formally demand their submission.

Claiming priority

A claim of priority, in accordance with item 2.4.1 Territoriality, is an expedient provided for in the Paris Union Convention (CUP), also covered by art. 127 of Industrial Property Law.

A claim of priority must be made at time of filing, by clicking on the specific box. Then, the user must then click Add and complete the fields corresponding to the date and number of the trademark in question must be completed, as well as the field relating to the country or organization where the trademark is lodged. It should be noted that union priority declaration shall contain at least the country and the date of filing or registration, as set out in section D of art. 4 of the Paris Union Convention (CUP).

It is worth noting that if the user wants to claim more than one priority, they can do so by clicking **Add** and filling in the respective fields.

Additional information on documents proving priority can be obtained in item 3.7.3 Documents relating to the priority claim.

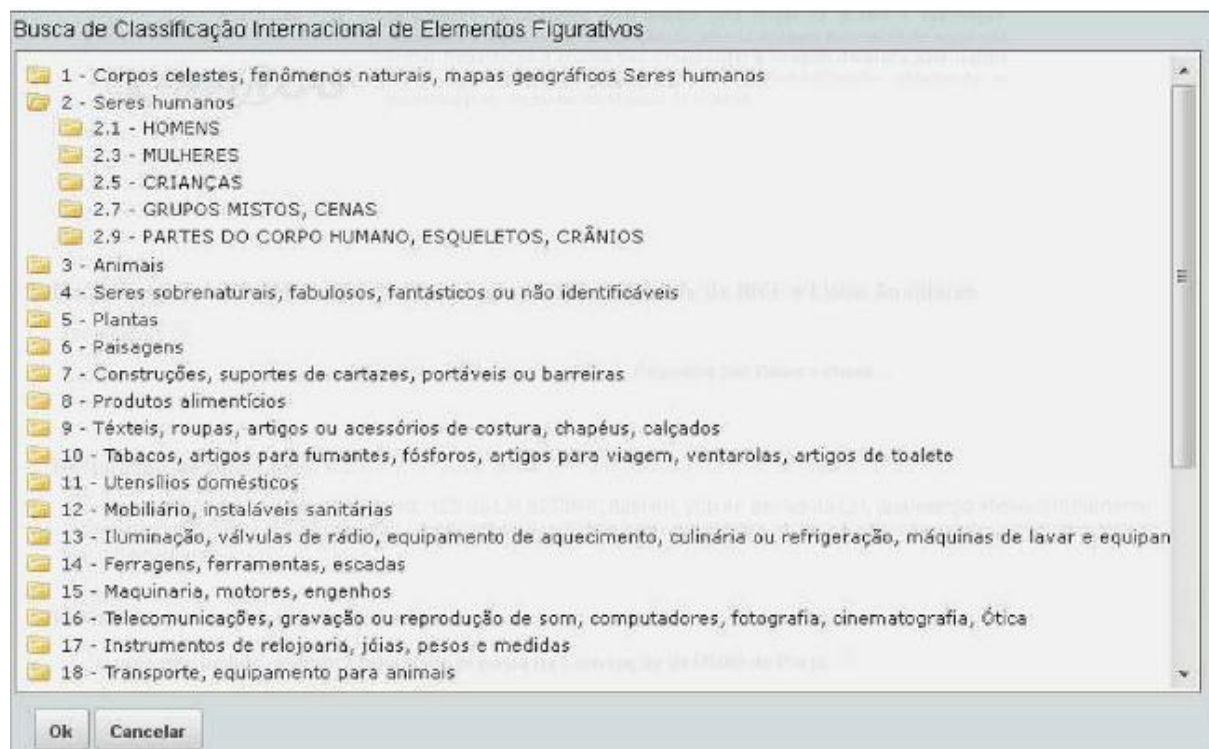
Classification of Figurative Elements

For cases where the trademark's presentation is **combined, figurative, or three-dimensional**, it is necessary to classify its figurative elements. This is mainly due to the fact that, at the time of the registrability examination, the figurative search must be based on certain pre-established criteria to facilitate search systems in large databases such as that of the INPI. These pre-established criteria are supported by the International Classification of Figurative Elements.

To assist the user in finding the classification that best corresponds to the figurative element that is the subject of the application, the form provides search and selection tools for such information. Thus, similar to what occurs in the selection of product or service specifications, the user can search all classes by clicking the "Show class list" button, or by using keywords, through the "Keyword search" button.

Searching using the method "View List of Classes" :

Choosing the "View list of Classes" option displays the list of all categories, containing a summarized description for each. By clicking on one of these categories, the divisions will be opened:



The user must refine their classification by clicking on the desired item and choosing the options that best fit the figurative element of its trademark.

The above procedure can be performed for each of the figurative elements that make up the image, remembering that up to five (5) classifications can be selected.

Selecting the classification of the figurative elements that best match the figurative element of the trademark applied for, the user must click the OK button to confirm that these are the chosen classifications, saving the result on the electronic form.

Searching using the method "Search by keyword"

Choosing the option "Search by keyword" the user will achieve a search result, with a summarized description of the different categories, which does not occur when the display of all items in the same category is chosen.

In the example below, the word "sun" was the search term. Note that items from categories 1, 4, 15, and 23, among others, are listed. The search result indicates that the search is done by root, bringing up words like "isolated," "gasoline," and "solids."

Busca de Classificação Internacional de Elementos Figurativos por Palavra-chave

Digite o termo para busca: sol

Há um limite de 5 (cinco) classificações para cada pedido de registro de marca.

Escolha	Código	Descrição
☒	1.3.1	Sol nascente ou poente
☐	1.3.2	Outras representações do sol
☐	1.17.11	Países isolados
☐	4.5.3	Figuras ou sólidos geométricos personificados, combinações de figuras ou de sólidos geométricos representando uma personagem
☐	4.5.13	Figuras ou sólidos geométricos ou combinações de figuras ou de sólidos geométricos representando um animal
☐	15.1.23	Bombas de gasolina
☒	17.1.17	Relógios de sol
☐	20.5.15	Etiquetas soltas
☐	24.1.3	Escudos com representação de figuras ou sólidos geométricos, linhas, faixas ou divisões
☐	26.15.25	Outros sólidos geométricos
☒	1.3.6	Sol com paisagens
☐	1.3.7	Sol com seres humanos ou partes do corpo humano
☐	1.3.8	Sol com animais
☐	1.3.9	Sol com plantas

Once the classification that best corresponds to the figurative element of the desired brand has been selected, the user must click the OK button, confirming that these are the chosen classifications, consequently saving them in the electronic form.

The user can remove the classifications at any time before sending the form by clicking the button that appears on the right side of each.

It is highlighted that a list of all the categories, divisions and sections of the Vienna Classification is available for download from the INPI portal.

Attachments

According to the specifics of each registration application or petition, the corresponding electronic form can contain attachments, which may be mandatory or optional, as appropriate. The explanatory tables describing the required attachments in electronic petitions can be checked in item 3.6 Explanatory tables relating to petitions. Specific guidance on the content of the most common attachments are contained in item 3.7 Additional guidance regarding attachments. Is worth remembering that in the case of electronic petitions, the absence of mandatory attachments prevents the user from proceeding with the completion and submission of the form.

The user must: (a) choose the type of attachment they wish to insert, (b) click the Add button, and then (c) select, on your computer, the PDF file they wish to attach on the electronic form. After these three steps, the attachment will be part of the electronic form, as well as the original file name (the title of the recorded file on the computer) for the depositor conference.

Non pre-defined attachments can also be added using the Others field. The user must (a) describes the attachment stating the name that represents as faithfully as possible, its contents; (b) click the Add button, and then (c) select, on their computer, the PDF file they wish to attach to the electronic form. After these three steps, the attachment will be included in the electronic form, along with the original file name (the title of the file saved on the computer) for review by the depositor.

Non-predefined attachments can also be added through the other field. The user must: (a) describe the attachment by providing a name that

accurately reflects its content; (b) click the Add button; and then (c) select the PDF file on their computer that they wish to attach to the electronic form.

The user can remove the attachments at any time before sending the form by clicking the button that appears to the right of each.

All documents attached to electronic forms for registration applications or petitions must be sent to INPI as digital or scanned documents. Thus, for all purposes of this manual, the term 'document' when referring to sending attachments, means the set of text and/or images sent in the form of an electronic file. Whether by physically scanning the original content, or by an existing copy of a file that is exclusively in digital medium.

For security reasons, the user must use PDF format for text documents. To read PDF files it is necessary to have Acrobat Reader software installed, which is free and can be downloaded from the Internet. A PDF extension constitutes a security measure for the user and for INPI, in order to prevent unauthorized editing.

A text file can be converted to PDF using OpenOffice. Texco (Freeware); Microsoft Word (2007 onwards) or Acrobat Writer. It is mandatory for the user to observe technical specifications for the transmission of text documents through the e-form:

Valid file format PDF	PDF
Maximum file size	2 MB

In the case of text documents that need to be printed for authentication and then have their pages scanned, or in the case of sending copies of already printed documents, it is recommended that:

- a) The pages are scanned in black and white, as a TIF image in original size and with a resolution 200-300 DPI;
- b) After scanning all of the document pages, they must be saved as a word processing document in Word or Open Office, to then be converted into a PDF file. The file even if it contains several images, will have its size compressed, which facilitate transmission;

- c) Documents larger than 2 MB can be sectioned in order to be sent entirely. (Example: Articles of Incorporation – Part 1; Articles of Incorporation – Part 2; Articles of Incorporation – Part 3);
- d) It is recommended great care be taken in selecting and sending an attached document. One should check that the written document is what in fact is being sent. This procedure is the responsibility of the applicant;
- e) Finally, you may want to check the integrity of uploaded files, as well as their extensions. The more careful you are with files sent as attachments, the less likely your registration application or petition will be subject to any formal or compliance requirements.

Adding Applicants

Users can add applicants to a trademark registration application by clicking Add Applicant, as shown in the following figure:

Dados do(s) requerente(s)

Nome ou Razão Social: N° INPI:

Endereço: - Cidade:

CEP: País:

Situação Jurídica: Pessoa Jurídica

Please note that, in the case of a registration request submitted by more than one applicant, each applicant must have their own e-INPI registration, as per item 3.1 e-INPI Registration.

To include applicants, you can search by CPF, CNPJ, or INPI number, as well as by the applicant's name or business name.

Pesquisar Cliente [X]

⚠ Sr(a) Usuário, a busca é realizada respeitando os caracteres exatamente como informados.

☐ CPF/CNPJ/NINPI ☒ Nome ou Razão Social

Pesquise por

In trademark registration applications under a co-ownership regime, when no single attorney is appointed with powers to represent all applicants, documentation proving joint performance of the filing act must be presented, containing the signatures of all applicants

or their respective attorneys, in compliance with the provisions of §1 of art. 57 of INPI Ordinance No. 8/2022. In this documentation, if any applicant is represented by an attorney, it will also be necessary to present the respective power of attorney.

3.5.3 Specific observations for electronic form of petitions

By definition, a petition is an administrative instrument relative to the submission of written statements for the defense of a right, as well as being an instrument for requesting services from the INPI.

In the case of the Directorate of Trademarks, Industrial Designs, and Geographical Indications, a petition serves to forward and/or request any information relating to any trademark application or registration, or for a separate service provided by the Board.

The electronic form of trademark petition will reproduce not only information relating to the applicant and their attorney (if any), as well as primary data concerning the requested service, such as description of the application, No. of the process linked to the action and various other data variables according to the nature of the service required. Therefore, such information cannot be changed, since it is provided in the Fees Guide issuing area.

In completing the form, and according to the specifics of each desired service, new information will be requested from the user, so that petition documents are also configured in the same dynamic manner as that of the registration application.

To access the electronic form of the trademark application, the user must follow the same procedures adopted for the application procedures described in item 3.5.1 Access to electronic form.

The filling out of the electronic application form also follows the same principles and guidelines as the filling out of the electronic registration application form. However, although not all the application forms are reproduced in this manual - because their completion is self-explanatory - explanatory tables are presented, setting out the main procedures as well as more specific character of guidelines, with respect to the correct sending of information through the petition selected.

Peculiarities of some petition types

For each type of petition there may be a specific field that differs from the others. Below we list the types of petition containing some of their characteristics:

Type of Petition	Specifics
Compliance with a Formal demand arising from formal examination of a Registration Application (338)	This petition will contain a non-mandatory field, to attach the Digital Image of the Trademark, if the same has been subject to a formal demand.
Trademark Search Certificate by holder (347)	The form will include a specific field for the user to state whether the search will be by their Name/Company Name or by CPF/CNPJ. The search parameters must also be stated.
Trademark Search Certificate, by class of goods or services (377)	In this form the user must attach a Digital Image or fill out the nominative element of the mark that will be the target of the search certificate. The class for which the consultation will be performed must also be mandatorily stated.
Formal demand Compliance (340)	This petition will contain a non-mandatory field, to attach the Digital Image of the Trademark, if the same has been subject to a formal demand.
Fulfillment of requirements at the appeal / nullity level (3016)	This petition will include a field, not mandatory, to attach a Digital Image of the Mark, in case it has been the subject of a requirement in an appeal or in an administrative nullity process.
Annotation of a change of name, headquarters or address (348)	In this form, the user must advise the data to be updated in the Trademark Database. The information not required to be updated, is exempt from completion.
Annotation of Transfer of Ownership (349)	When issuing a GRU (Union Payment Form) for this service, the user must state the application/registration which will be transferred and the total number of processes, of the same owner, involved in the operation. By the amount of requests/records to be transferred, as stated when issuing the GRU, the corresponding electronic petition form will return exactly the same number of fields, allowing the user to enter the number of the processes involved in the service. On the form, a validation will be carried out against the database to ascertain the actual existence of the requests/records stated. Declaration of activity: it is noteworthy that in the case of applications with transfer objection merit examination still pending, the assignee is not exempt from providing clarification on the activity of the trademark applicant, as well as meeting other requirements that apply to the trademark registration application in question.

Note: the majority of petitions have the field "Petition Text" which can be filled out free-form, and provides 2,500 characters for use

by the user. In this field, the user can present their allegations or clarifications. If the number of available characters in the field is insufficient, a PDF document, containing any necessary allegations or clarifications, may be attached.

3.5.4 Submitting the Electronic Form

To complete the electronic registration or petition application form, the user must declare the accuracy of the information provided, otherwise the form will not be submitted:

Declaração
☒ Declaro, sob as penas da lei, que todas as informações prestadas neste formulário são verdadeiras.

After signing the previous statement, three (3) options will be presented at the end of the form, namely: **Back, Finish later and Next:**

- a) **Back:**The user returns to the Home screen in which should re-enter the GRU to reopen the form. The previously filled-in information is saved;
- b) **Finish later:**Automatically logs the user out of the system. The filled-in information is saved for subsequent sending of the form, and recovery can be made through the login, password and GRU number.
- c) **Next:**The system performs a check in order to identify whether the necessary information has been filled in and the required attachments have been entered on the form. If any information is missing, the system advises the user. If the basic information is filled-in, the system displays a **preview of the form**, in order that it may be validated by the user before sending.

Below the preview of the form, there are **Back, Finish later and Submit** options.

- a) **Back:** The user returns to the previous screen.
- b) **Finish later:** Automatically logs the user out of the system. The filled-in information is saved for subsequent sending of the form, and recovery can be made through the login, password and GRU number.

- c) **Submit:** Means that payment of the Fee has already been made, the user agrees with the preview and will effectively submit their trademark application or petition. Having selected the Submit option, a box opens below, alerting the user about all matters relating to the issuance of the Payment Form and payment, described in items 3.3 Issuing of GRU and 3.4 GRU Payment.

Confirmar Solicitação?

Antes de finalizar o seu pedido/petição, tratando-se de serviço pago, certifique-se de que o pagamento já foi realizado. Caso esteja protocolando seu pedido/petição em finais de semana, feriados ou fora do horário de expediente bancário, envie cópia digitalizada do comprovante de pagamento do serviço junto a este formulário.

A aceitação do pedido/petição está condicionada à confirmação do pagamento da respectiva GRU (Guia de Recolhimento da União) até a data deste protocolo, sob pena do pedido vir a ser considerado inexistente e a petição não ser conhecida.

Certifique-se de que a GRU, objeto deste pedido/petição foi paga. Caso tenha ocorrido pagamento de valor adicional, decorrente de alterações na tabela de retribuições, certifique-se também de ter anexado o comprovante de pagamento da complementação. O INPI não se responsabilizará por erros na seleção dos serviços, utilização de GRU sem pagamento ou pelo uso indevido do sistema e-INPI por má compreensão ou inabilidade do usuário.

Deseja realmente finalizar?

Selecting the **No** option the user returns to the preview and can click Back to re-edit the form. Selecting **Yes** sends the form and issues a submission receipt, meaning the entered information can no longer be changed.

The following screen shows the actual sending of the electronic form:



Número do Pedido: **905873475**
Número do seu Protocolo: 850130025337
Data do Protocolo: 15/02/2013
Horário do Protocolo: 11:45:28



Clique Aqui! Para receber seu
Formulário Eletrônico
Protocolado

Obrigado por acessar o e-MARCAS.

A partir de agora, o número acima identificará o seu pedido junto ao INPI. Contudo, a aceitação do pedido está condicionada à confirmação do pagamento da respectiva GRU (Guia de Recolhimento da União), que deverá ter sido efetuado previamente ao envio deste formulário eletrônico, bem como ao cumprimento satisfatório de eventual exigência formal, (prevista no art. 157 da Lei da Propriedade Industrial - LPI, lei n.º 9.279, de 14 de maio de 1996), em até **cinco dias** contados do primeiro dia útil após a publicação da referida exigência na RPI (**disponível em formato .pdf no portal www.inpi.gov.br**), sob pena do presente pedido vir a ser considerado inexistente.

Após enviar o formulário eletrônico de pedido de registro de marca, o mesmo será submetido a exame formal e, não havendo nenhuma exigência formal, será publicado na Revista Eletrônica da Propriedade Industrial (RPI) para que terceiros possam contra ele se opor, respeitado o prazo de 60 dias a contar da referida publicação.

Não deixe de acompanhar o andamento do seu processo, acessando semanalmente a RPI.

[<< Voltar ao Início](#)

Essential information about the electronic deposit was generated:

a) Request number:

A nine-digit number that identifies the registration application with INPI. Armed with this number, the user should follow the progress of their case through the RPI (in PDF format) available on the INPI portal to monitor the publication of the application, and the possibility of any formal demand. The deadline for compliance is 5(five) days from the date of publication in the RPI otherwise the application is considered non-existent. In the case of petitions, this is just the application or registration number to which the petition relates. Additional information about monitoring of the application can be found in section 3.10 Monitoring processes.

b) Protocol number:

Number, highlighted in green, which is essential for monitoring the progress of petitions. With this number, you can track the progress of your application by RPI (in PDF format), available on the INPI portal, including with regard to the eventual compliance with a formal demand. In the case of filing an application for trademark registration, this is just one control number in a general world of applications and petitions. The monitoring of the application filing shall be done by way of a 9 (nine) digit order number.

c) Date and time of the protocol:

Constitutes the date and time that the INPI system receives your application or petition. In case of an application for trademark registration, it should be noted that the application submission date will be referred to as the priority date. The priority is important, as the entire examination of trademarks takes into account the existence of previous applications.

3.5.5 Transmission receipt for electronic form

The user has access to the receipt for the application for trademark registration or petition in the protocol confirmation screen by clicking the button as highlighted below:



The registration application or the petition receipt is issued in PDF, which must be printed or saved on the user's computer. It's worth remembering that the application/protocol number is essential to monitor the progress of the process in the Industrial Property Journal.

The receipt contains important information to be observed by the user:

a) The data entered in the electronic form together with the attached documentation become part of a single PDF file with an electronic signature issued by a certification authority that cannot be changed, providing total security for system users. The pages are numbered, counting the pages of the form and also the pages of any attachments;

b) In the PDF file, the user is offered a Quick Access menu to their documents, by clicking the icon. In this menu, an index is displayed, containing the titles of attachments defined by the user when filling out the electronic form, conforming with the following template. It is very important that the user carefully names the files to be attached.

Duplicate electronic form submission receipt

After submitting the electronic trademark registration application or trademark petition form, the user may obtain a 2nd copy of the receipt. Therefore, once authenticated by the system, they must **enter the GRU number** used and click **Next**, as if filling out a new form.

The same screen that opened at the end of delivery then appears, allowing a download of the file in the mold of that advised in 3.5.5 Transmission receipt for electronic form. It should be noted that the 2nd copy of the receipt for the registration application is only available if the authenticated user is the applicant himself, his attorney or a contracted attorney's office.

3.6 Explanatory tables relating to petitions

For user guidance purposes, we have prepared explanatory tables containing basic information about the protocols for the different kinds of petition as well as the services to which they relate. Such tables are made up of the following information:

a) Service and corresponding code

Description of the service or the corresponding code to be entered by the user at the time of issue of the GRU. Thus, the user is able to access the service both by its description, and its code. In the case of petitions that may refer to different parts of a process for a trademark, there are also many objects described, to which these petitions can be attributed, in order to publish a list of possibilities for the user to find the petition corresponding to the service they require.

b) Applicability

A brief explanation of the application for each selected service applies.

c) Mandatory attachments

An indication of the documents that must be sent. It is worth noting that, **when opting for petitioning by e-Marks, it will not be possible to proceed in filling out and sending the electronic form of the petition without such documents are attached.** However, in all cases, including those related to services for which there are no mandatory attachments, there are standard categories of possible attachments that may be sent.

d) The object that the petition refers to

Description of additional of what must be filled in this field in each service request when issuing the GRU.

Regarding item "d" above, it is recommended that, when generating the GRU, the provisions contained in the following tables be observed, regarding the service to be requested, in order to ensure the correct link to the process or other specific petition.

Below is the list of explanatory tables available, sorted by petition type:

3.6.1 Petitions relating to compliance with formal demands

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Formal demand compliance arising from formal examination in a Registration Request (338) Exempt petition	Respond to the requirement made to the applicant during the formal examination stage of the registration application , that is, before the publication of the application for submission of opposition by third parties. This requirement must be met within 5 (five) consecutive days of the publication of the requirement in the RPI, otherwise the request will be considered non-existent.	There are no mandatory attachments. The sending of attachments depends on the content of the formal demand published.	—

Formal demand compliance resulting from petition conformity examination (382) Exempt petition	Responding to a formal demand made during the petition compliance examination stage . The petition compliance examination usually refers to payment issues, and in such cases, the deadline for formal demand compliance is 60 calendar days from publication of the formal demand in the RPI.	There are no mandatory attachments. The sending of attachments depends on the content of the formal demand published.	–
Formal demand compliance (340) Paid petition	Responding to a formal demand made during the examination of the registration application. The deadline for compliance is 60 days from the publication of the formal demand in the RPI, under penalty of definitive shelving of the application.	There are no mandatory attachments. The sending of attachments will depend on the content of the formal demand published.	In the registration process
	Responding to a formal demand made during the examination of the petition . The deadline for compliance with the formal demand in the RPI is 60 calendar days from publication of the formal demand in the RPI.	There are no mandatory attachments. The sending of attachments will depend on the content of the formal demand published.	Under petition Note: After selecting the object of the petition as "under petition", the applicant must select the petition number which refers to the compliance with a formal demand. For example, if compliance with the formal demand refers to a transfer petition, the number of the transfer petition must be notified.

Compliance with requirement at the appeal/nullity stage (3016) Petition paid	Respond to the requirement formulated during the examination of an appeal against the rejection or partial approval of a registration application. Respond to the requirement formulated during the examination of an appeal against the cancellation or archiving of a registration letter or registration application. Respond to the requirement formulated during the examination of an appeal against a decision issued in a petition or during the examination of an administrative nullity process. The deadline for compliance is 60 (sixty) days from the publication of the requirement in the RPI.	There are no mandatory attachments. Submission of attachments will depend on the content of the published requirement.	In the petition Note: After selecting the subject of the petition as the applicant, you must select the petition number to which the requirement is being met.

For the purpose of meeting requirements, the applicant may use the models attached to this manual.

3.6.2 Opposition petitions, administrative nullity and forfeiture proceedings

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Opposition (332)	Protest against the publication of an application for trademark registration within 60 days of its notification in the RPI.	—	—
Administrative nullity of trademark registration (336)	Establish administrative nullity proceedings of the trademark registration.	—	—
Cancellation(337)	Request the cancellation of a particular trademark registration.	—	—

For the purposes of filing an opposition to a trademark registration application, the applicant may use the models attached to this manual.

3.6.3 Petitions concerning protests and appeal

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Protest (339)	Protesting against opposition to an application for trademark registration within 60 days from the notification of the opposition in the Journal of Industrial Property.	—	In the process of registration
	Protesting against forfeiture procedure.	—	In the petition The applicant must select the number of the forfeiture petition.
Protest of an opinion issued on appeal (376)	Present a statement on the opinion issued at the appeal stage.	—	Note: The applicant must select the appeal number in the linked petition field
Appeal against rejection of trademark registration application (3000)	File an appeal against the rejection of the registration application or against the partial approval of the registration application.	—	Against decision in registration process
Trademark appeal (except against rejection of trademark application) (333)	Submit an appeal against the rejection of a registration application or against the partial rejection of a registration application.	—	Counter decision in the registration process
	Submit an appeal against the decision issued in a petition (granted, rejected, answered, not answered or not recognized).	—	Counter decision under petition After selecting the object of the petition as "Counter decision under petition", the applicant must select the petition number the appeal refers to. For example, if the appeal refers to a decision in a

			transfer note request, the transfer request number must be entered.
Counterarguments to the appeal/nullity (3015) Paid petition	Present arguments against a petition for appeal or administrative nullity filed in a trademark process.	–	In the petition The applicant must select the number of the administrative nullity petition.
Cumprimento de exigência em grau de recurso/nulidade (3016) Petição paga	Respond to the requirement formulated during the review of an appeal against the denial, partial denial, cancellation, or archiving of a registration notice or application. Respond to the requirement formulated during the review of an appeal against a decision issued on a petition or during the review of an administrative nullity proceeding. The deadline for compliance is 60 (sixty) days from the publication of the requirement in the RPI.	There are no mandatory attachments. Submission of attachments will depend on the content of the published requirement.	Em petição Observação: Após selecionar o objeto da petição como "Em petição", o requerente deve selecionar o número da petição à qual se refere o cumprimento da exigência.

For the purposes of expressing or contesting the expiry, the applicant may use the models attached to this manual.

3.6.4 Petitions relating to power of attorney

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Document Submission (381) – power of attorney	Send power of attorney to undertake actions in INPI, within the legal deadline.	Power of attorney (3.8.1)	Power of Attorney (in the registration process) When power of attorney is given to undertake actions in a process. Power of attorney (under petition) When power of attorney is given to undertake actions in a particular process.

Appointment, removal or replacement of attorney (385)	Applicant/Holder domiciled in Brazil that you want to be removed as an attorney for the process . Appoint or replace an attorney for the process to undertake actions in INPI.	Declaration of removal/replacement of attorney (3.8.17) in the case of dismissal. Power of Attorney when appointing an attorney.	In the registration process When an attorney is appointed or replaced for the entire registration process. Under petition When an attorney is appointed or replaced only for that action.
Renunciation of the mandate of power of attorney (387)	Attorney who wishes to renounce the power of attorney mandate .	Declaration of renunciation of power of attorney mandate (3.8.18)	In the registration process When renunciation is for the entire registration process. Under petition When renunciation is only for that action.

3.6.5 Petitions for annotations of ownership transfer, of limitations or encumbrances, or change of name, address and headquarters

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Annotation of Transfer of Ownership (349)	Request annotation of title transfers due to assignment , in regards to a trademark application or registration.	Document relating to the assignment	Arising from assignment
	Request annotation of a title transfers due to split , in regards to a trademark application or registration.	Document relating to the split	Arising from split
	Request annotation of the title transfer by merger or incorporation in regards to a trademark application or registration.	Document concerning the incorporation or merger	Due to merger
	Request Ownership transfer note, by virtue of legal or testamentary succession , on a trademark application or registration.	Legal documentary evidence of the legal or testamentary succession	Due to legal or testamentary succession
	Request Ownership transfer annotation, due to bankruptcy , in regards to a trademark application or registration.	Judicial document proving bankruptcy	Due to bankruptcy

Annotation of a change of name, headquarters or address (348)	Request registration for a change of name, company name, headquarters or address.	Updated articles of incorporation/document proving the change; In the case of a change of headquarters by order of the City Hall, a list of processes to be changed and a document proving the change of address issued by the City Hall.	–
Annotation of a limitation or lien (380)	Request annotation of encumbrances, limitations or liens that fall on the registration or application for registration in question.	Motives and documents for annotating encumbrances	–

3.6.6 Petitions concerning corrections and rectifications

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Rectification of Publication error in the Journal of Industrial Property - RPI (366)	Request correction of decisions or details published in the RPI , as well as registration information in the INPI database, relating to applications or registrations of trademarks due to the Institute failure.	–	Under petition When the error is related to an application, specify the number of this. In the registration process When the error is related to one process.
Correction of data in the process due to the failure of an interested party (378)	Request correction of data concerning the registration or registration request arising from registered information in the INPI database, due to the failure of an interested party.	–	–

3.6.7 Addendum petitions or submission documents

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Addendum to the petition (379)	Supplementary information relating to a petition filed earlier.	—	The applicant must select the petition number for which they want further information. If the petition was, for example, one of opposition, the applicant must inform the number of the previously filed opposition petition. This field must not contain process number.
Supplementary priority claim (386)	Claim for union priority supplementation previously claimed	—	—
Document Submission (381)	Send additional documents to request a collective mark registration, more specifically, the regulations governing the use of the trademark in question.	Regulations governing the use of a collective trademark	Regulations for the use of a collective trademark
	Send technical documentation for certification mark of the registration application, more specifically, the characteristics of the goods or services, the object of certification as well as the control measures to be taken by the holder.	Technical documentation containing characteristics of the goods/services to be certified and control measures	Mandatory documents related to the certification mark Characteristics of the goods/services subject to certification and control measures to be adopted by the holder.
	Send translation of foreign documents relating to documents previously filed for registration application or registration.	Translation of documents in a foreign language	Translation of documents (in the process of registration)

	Send translation of foreign documents relating to documentation previously filed for the petition.	Translation of documents in a foreign language	Translation of documents (under petition)
	Submit supporting documents relating to the previously claimed union priority	Documents relating to a union priority claim	Priority Documents
	Send another document to be attached to the application or registration.	Document in question	Other documents (in the registration process)
	Send another document to be attached to the previously filed petition.	Document in question	Other documents (under petition)
	Send power of attorney (check item 3.6.4 Petitions relating to power of attorney).		

3.6.8 Petitions of withdrawal or waiver

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Registration withdrawal request (383)	Request approval of the full waiver of trademark registration.	Power of attorney with express authority to withdraw, if the applicant is not the one requesting the service. Power of attorney with authority to represent all applicants, if the request is jointly owned.	—
Partial withdrawal of registration application (3017)	Request the approval of the trademark registration waiver. If the waiver request is partial, the user should clarify in detail in the body of the application, what goods or services they want to give up.	Power of attorney with express authority to withdraw, if the applicant is not the one requesting the service. Power of attorney with authority to represent all applicants, if the request is under a joint ownership arrangement.	—
Waiver of trademark registration (388)	Request approval of the withdrawal of a previously filed petition (opposition, nullity, expiry, transfer of ownership, among others).	Power of attorney with express authority to withdraw, if the applicant is not the one requesting the service. Power of attorney with authority to represent all applicants, if the request is under a joint ownership arrangement.	—

Partial waiver of trademark registration (3018)	Request approval of the waiver of part of the scope of protection of the trademark registration, indicating a change to the list of goods or services.	Power of attorney with express powers of withdrawal, if not the applicant themselves requesting the service. Power of attorney with authority to represent all applicants, if the registration is under a joint ownership arrangement.	–
Petition Withdrawal (384)	Request the approval of a previously filed petition for withdrawal (opposition, nullity, forfeiture, transfer, etc.).	Power of attorney with express powers of withdrawal, if not the applicant themselves requesting the service. Power of attorney with authority to represent all applicants, if the registration is under a joint ownership arrangement.	–

3.6.9 Petitions relating to being highly renowned

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Highly renowned recognition application (393)	Submit request for autonomous application for recognition of being highly renowned.	–	–
Protest on the basis of being highly renowned (361) - migration	Request the migration of an interlocutory application to be recognized as being highly renowned by way of autonomous recognition.	–	In the registration process
Protest on the basis of being highly renowned (361)	Protest as to some highly renowned publication, except those subject to appeal	–	Under petition
Appeal on the grounds of being highly renowned (362)	Appeal against judgment regarding being highly renowned.	–	Under petition

3.6.10 Petitions concerning the return deadline

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Return deadline due to the failure of INPI (342)	Request return deadline for performing the action for which time has run out due to the alleged impediment of INPI .	Document proving that just cause impedes performance of the action within the legal deadline	Under petition When the return refers to the consideration of a petition. In the registration process When return refers to the request.

Return deadline due to the impediment of an interested party (341)	Request return deadline for performing the action for which time has run out due to the alleged impediment of the applicant.	Document containing the grounds for just cause of such impediment	Under petition When the return refers to the consideration of a petition. In the registration process When return refers to the request.

3.6.11 Petitions relative to search certificates and official copy

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Search certificate of the trademark by the holder (347)	Request that INPI issue a search certificate for trademarks requested or registered by a single holder.	—	—
Search certificate of the trademark by class of goods or services (377)	Request that INPI issue a search certificate for nominative, figurative, combined or three-dimensional trademarks, by class.	—	—
Official Copy (352)	Request INPI issue the official copy of the trademark application or registration.	—	—

3.6.12 Petitions concerning the Classification Committee

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Consult the Goods and Services Classification Commission (357)	Consult the Commission of Goods and Services Classification - CCPS - concerning the correct NICE class of the goods or services to be classified.	—	—
Consulting the Trademark Figurative Elements Classification Commission (358)	Consulting the Trademark Figurative Elements Classification Commission - on the correct classifications of figurative elements for figurative, combined or three-dimensional trademarks to be presented at a later time.	—	—

3.6.13 Petitions relating to other units of INPI

Service and corresponding code	That to which it applies	Mandatory attachments	The object that the petition refers to
Simple reprographic copy (824)	Request from INPI the full or partial copy of a trademark registration application or trademark registration.	–	Trademark
Certified reprographic copy (825)	Request the full or partial certified copy of the trademark registration application or trademark registration from INPI.	–	Trademark
Payment refund - (801)	Request INPI refund any improper or increased payments. You must enter the number of the initial or preliminary payment form ("Our Number").	In accordance with procedures regulated by the INPI Board of Directors (DIRAD).	–

3.7 Additional guidance regarding attachments

Regardless of the chosen protocol mode the user will be required to present specific types of documents according to the service demanded. Below, guidance is offered on the services and the most common attachments:

(Table omitted)

3.7.1 Power of attorney and documentation relating to joint performance of acts

The power of attorney, to be considered valid by the INPI, must contain

necessarily:

- a) Grantor Details;
- b) Grantee Details;
- c) Grantee power type;
- d) Date, place and signature of the Grantor.

This power of attorney must be written in Portuguese and, if the original is in another language, the user must submit their translation, without the need for consular legalization and notarization of the submission.

In trademark registration applications under a co-ownership regime, if the filing or petitioning was carried out by a sole attorney-

in-fact, it will be verified whether the grantee has the power of attorney to represent all applicants, who must sign the power of attorney as grantors and be duly qualified.

When the act is not performed by a sole attorney-in-fact, that is, when filed by one of the applicants or by an attorney-in-fact without the power to represent all applicants, documentation containing the signatures of all applicants or their respective attorneys must be submitted, in compliance with the provisions of Article 57, §1, of INPI Ordinance No. 8/2022. In this documentation, if any applicant is represented by an attorney-in-fact, the respective power of attorney must also be submitted in this documentation.

When referring to petitions for opposition, administrative nullity petitions, or requests for forfeiture, it is not necessary for the act does not need to be performed by a sole attorney-in-fact or by all applicants or their respective attorneys, since, according to Article 57, §1, of INPI Ordinance No. 8/2022, the power of attorney-in-fact is not required. 50 of INPI Ordinance No. 8/2022, these petitions may be filed by only one of the joint holders of the registration or application on which the allegations are based.

Additional information on examining the power of attorney is available in item 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

3.7.2 Consent to register the requested symbol as a trademark

Symbol composed of a third party's legal name, patronymic, or image may only be requested as a trademark with the consent or authorization of the respective right holder. In these cases, the user must attach the consent or authorization document to the registration application form, otherwise a demand will be made.

For trademark registration applications under a co-ownership regime, authorization expressly permitting registration of the symbol by all applicants for the application in question must be submitted.

3.7.3 Documents relating to the priority claim

If the user claims priority for their request at the time of submission, they must, within a period of up to four (4) months from the date of submission, send as an attachment supporting documents which must contain:

- a) Country or organization of origin of trademark application/registration;
- b) Number and date of the trademark application/registration;
- c) Reproduction of the trademark application/registration, accompanied by a translation, the contents of which shall be the sole responsibility of the applicant.

The supporting documentation may consist of official copies, reproduction of source body publications, even in their online form. Their submission is the responsibility of the applicant and failure to comply with the period of four (4) months will generate the republication of the application, with the loss of priority, for not being in accordance with the second paragraph of art. 127 of the LPI.

If there are discrepancies between the data (date of submission, the foreign trademark submission number/registration number and country code) entered on the form and that of the accompanying documentation, the information in the documentation will prevail.

If priority is obtained by assignment or when the group of applicants is different from the group of holders listed in the priority document, the assignment document for the priority must be submitted as an attachment, along with the document proving priority.

Guidance for examining priority documents is provided in section 5.6.2 Document Evidence of Priority.

3.7.4 Regulations governing the use of a collective trademark

If the trademark applied for is of a collective nature, the user must attach to the application, regulations for use of the trademark, which shall contain the conditions and prohibitions of its use, as per the model attached to this manual. Failing to do so at the time of submission, the applicant must do so within 60 (sixty) days from the date of submission of the registration application. It is emphasized that in the event that the document is not sent by the deadline above, the registration application in question will be definitively shelved.

Additional information on the examination of the collective trademark use regulations can be found in item 5.14 Analysis of collective trademark applications.

3.7.5 Technical documentation containing characteristics of the goods/services to be certified and their control measures

In the case of a certification mark, the applicant must attach the technical documentation to the application, containing a description of the characteristics of the good or service to be certified for the trademark, as well as the means to attest to compliance and ensure the control that will be adopted by the registration holder(s), as provided for in Chapter XV of INPI Ordinance No. 8/2022.

If the applicant fails to do so upon filing, the applicant must submit the documentation within 60 (sixty) days from the date of submission of the registration application. It should be noted that the absence of such documents after the aforementioned legal deadline will result in the definitive archiving of the registration application in question.

Changes to the technical documentation for certification mark applications and registrations must be communicated to the INPI at any time. The content of such changes will be subject to review, and expansion of the scope of the originally requested specification will not be permitted.

3.7.6 Translation of documents in a foreign language

Documents that instruct the application for registration or petition, which eventually are in a foreign language must have the translation sent within sixty (60) days from the submission date of said application, with the need for consular legalization.

In cases where the corresponding translation accompanies the file, along with the original document, there is no need to send as the required translation as an attachment.

3.7.7 Updated articles of incorporation/document proving the change

The attachment is described in the petition for Change of Name, Company Name, Headquarters and/or address. Its submission is required to prove the actual change of address and/or company name.

3.7.8 Allegations of opposition

Allegations of opposition are the reasons for a user to submit Opposition petitions, to guard one's own right. They are exclusive to these petitions and must be expressed, under penalty of the petition not being published. In the case of an electronic application via e-Marks, the applicant is not required to attach them, because one can use the "Petition Text" to submit claims.

3.7.9 Proof of use

Exclusive attachment to the petition Protesting or Contesting forfeiture. It is used by the trademark holder to attach the evidence of use of the trademark or justification of its disuse for legitimate reasons, to the electronic form.

The guidelines for the examination of the proof of use are available in item 6.5.4 Investigation of use, and proof of use of mark.

3.7.10 Grounds for just cause

This is an attachment exclusively for the Request for Refund of Deadline due to the interested party's impediment. It is mandatory, and the applicant or holder must attach files demonstrating the impossibility of performing the administrative act within the legal deadline.

3.7.11 Document proving that just cause impedes performance of the action within the legal deadline

Exclusive attachment to the Application for Return Deadline petition due to the impediment INPI. Its submission is mandatory and the applicant/holder must attach the files, proving the INPI's failure that prevented the administrative act from being performed within the legal deadline.

3.7.12 Powers for disposal of the trademark

Exclusive attachment to Transfer petitions of the Holder. It is used to attach documents certifying the legitimacy of the transferor's representative for disposal of the trademark in question.

3.7.13 Assignment

Exclusive attachment to Transfer petitions of the Holder due to Assignment. It is used to attach official documentation regarding the assignment of the trademark(s). The document must contain the

full information of the assignor(s) and assignee(s), the powers of representation of the signatories to the assignment, the application or registration number(s), the trademark assigned, and the date of execution. To this end, the applicant may use the template attached to this manual.

3.7.14 Scission

Exclusive attachment to Transfer petitions of the Holder due to Scission. It is used to attach official documentation regarding the Scission of the company.

3.7.15 Incorporation or merger

Exclusive attachment to Transfer petitions of the Holder due to Incorporation or Merger. It is used to attach official documentation regarding Incorporation or Merger.

3.7.16 Judicial evidentiary document

Exclusive attachment to Transfer petitions of the Holder due to legitimate or testamentary succession and transfer due to bankruptcy. It is used to attach legal documents attesting to succession or bankruptcy.

3.7.17 Declaration of removal/replacement of attorney

Annex signed by the applicant/holder, used to attest to the removal or replacement of the current attorney, used in case of Nomination petitions, Removal or Replacement of attorney. In this case, it is mandatory to present only one document: the declaration of dismissal, or replacement, or a new power of attorney appointing a new attorney; the user may, if desired, submit more than one document.

3.7.18 Declaration of renunciation of power of attorney mandate

Mandatory, exclusive attachment to petition Renunciation of Power of Attorney Mandate. It is used to attach a document signed by the attorney, certifying the renunciation of the attorney previously submitted to INPI.

3.7.19 Power of attorney with express powers of withdrawal or waiver

Documents that must be attached in petitions of withdrawal or waiver, if filed by the attorney:

- a) Application and Registration;
- b) Administrative Nullity Process;

- c) Opposition;
- d) Forfeiture;
- e) Transfer of the Holder.

3.7.20 Trademark image

Document which must be attached mandatorily in figurative, combined or three-dimensional trademark registration applications, or optionally, in Formal Demand Compliance petitions or registration process petitions, in response to demands requesting resubmission of the trademark image. Guidelines regarding the document's dimensions, resolution, and format can be found in item 3.5.2 Filling in e-form, subtitle "Digital Image of the Trademark."

3.8 Exempted services form

Any service that can be provided through the information relative to the payment of a specific fee, is exempted from the need to fill out the entire form - as it is automatically extracted from the module issued by the Union Payment Form (GRU).

Therefore, the services listed in the following table do not need to be submitted by a form. It is sufficient to select them correctly when issuing the GRU and make timely payment (see items 3.3 Issuing the GRU and 3.4 Payment of the GRU), thereby avoiding submission of redundant information.

The payment date will be considered as the date of application for the petition protocol, exclusively for these services that do not require completion of an electronic form.

Code	Service Description	That to which it applies
350	Certificate of actions relating to the Process	Request expedition of the progress certificate relating to the trademark request or trademark registration.
372	First decade of trademark registration validity and dispatch of the registration certificate (paid by the normal deadline)	Request dispatch of the registration certificate and protection for the first decade of trademark validity by the normal deadline.
373	First decade of trademark registration validity and dispatch of the registration certificate (paid by an extraordinary deadline)	Request dispatch of the registration certificate and protection for the first decade of trademark validity by an extraordinary deadline.
374	Trademark registration renewal and issuance of certificate of registration (paid by the normal deadline)	Request renewal of Trademark registration and issuance of new certificate of registration by the normal deadline.

375	Trademark registration renewal and issuance of certificate of registration (paid by the extraordinary deadline)	Request renewal of Trademark registration and issuance of new certificate of registration by the extraordinary deadline.
351	Duplicate trademark registration certificate	Request a duplicate trademark registration certificate.

It is worth noting that the presentation of powers of attorney granting specific powers to perform the acts listed above, if applicable, must be done through a petition for "Presentation of power of attorney documents (in petition)" (Service 381).

Receipt of payment for GRU exempt from form filling

For greater convenience and security for the user, the receipt for payment of GRU is made available in the Collection Guide issuance module, exempting the need to fill out an electronic form. So, whenever you are properly identified in our systems, through the receipt option (see figure below), the user can have access to all transaction receipts for such services, provided that the payment is already reconciled by the bank.



After selecting the GRU for the service exempted from filling out an electronic form, the user can view and print their receipt, if bank reconciliation has already occurred.

3.9 Next steps to submission/protocol

Formal examination

After being filed, the application for trademark registration is subject to formal examination, where the formal conditions required for the continuity of the process are checked.

The first check that is made refers to the payment of the registration application fee, which must take place by the date of issue of the request and must correspond to the exact value set out in Fees Table.

The applicant must submit proof of payment attached to the registration application demonstrating the payment of the value in cases of reduced fees, or demonstrating that this is a payment made on the same day as sending, for situations in which payment has been made outside normal banking hours. If proof of payment is not submitted, formal demands may be made accordingly, to be complied with, within five calendar days from the date of its publication.

If payment is made after submission of the application or any formal requirement is not met within the period stipulated by law, the application will be considered non-existent, or the application will not be given further processing.

If after checking payment, any inconsistency or inaccuracy of the figures is identified, a formal demand to wipe the application will be made, published in the Trademarks section of the Journal of Industrial Property (RPI).

To verify that your application or petition is the object of a formal demand, the user must search by process number or name/company name in the Find field of the journal, in its PDF version, according to item 3.11 Monitoring processes. As noted above and in view of the provisions of art. 157 of the LPI, the applicant has five (5) days to comply, counted from the first business day following the date of such publication, otherwise the application for registration will be considered non-existent.

How to comply with a formal demand

If the application for trademark registration is subject to a formal demand, the applicant must be aware of the deadline for compliance, because it is five (5) calendar days from the day following the publication in the RPI (Articles 157 and 221 Industrial Property Law).

The user will need to generate a GRU exempt from payment, to meet the requirement. In the GRU selection and emission module, code 338 - Demand compliance due to formal examination of registration application, must be selected.

Once you have made that choice, you will be asked for the applicant case number (9-digit) of the object of the formal demand. Then you will be asked for the RPI number (Journal of Industrial Property) in which the formal demand was published.

It must be noted that the information of such data (process and journal number) are the user's responsibility. Be very careful not to enter incorrect details.

If the formal demand is related to a supplementary payment in addition to the 338 service, the applicant shall issue a GRU Payment, in accordance with the instructions in item 3.3.1 Instructions for issuing GRU. The GRU supplementary payment should be sent as an attachment to the electronic form or on paper.

After paying the fee and obtaining the fee number for fulfilling the formal requirement, access e-Marcas. In the "Our Number" field, enter the GRU number. A form titled "Fulfillment of Requirement arising from Formal Examination" will open. Make sure this is the subject of the petition.

Complete and submit the form, according to the guidelines in this Manual. Keep your number and track the progress of your process through the publications in the RPIs.

Requests submitted on paper may have any requirements fulfilled through an electronic petition.

Publication of the application

If there is no formal demand or the same has been fulfilled satisfactorily, the registration application is published in the RPI for third parties to oppose, within a deadline of 60 days from such publication.

Opposition/protest

If opposition is filed, the applicant is also notified through the RPI and has access to a copy an opposing petition, to allow them to speak out against the challenge. The presentation of the defense, which is optional, must be made within 60 (sixty) days from the first business day following the date of publication of the opposition through the form itself.

Merit examination

Once the publication/opposition filing phase is over, the application awaits the merit examination, described in item 5 Substantive examination, which will result in a decision on the registrability of the trademark.

The applicant must regularly monitor the progress of the application according to the instructions on item 3.10 process Monitoring. At the time of the merit examination, republication may occur, being subject to a formal demand, dismissal, acceptance or rejection, as described in item 5.19 Applicable dispatches.

Granting

Only after examining the merits and if INPI decide through the approval of the request, the registrability of the trademark, the applicant shall pay the fee relating to the dispatch of the certificate and protection for the first decade. Art. 162 of the LPI provides that the normal deadline for payment of such fees is 60 calendar days from the approval date published in the RPI. It is also possible to make payment of such fees up to 30 calendar days after the expiration of the initial deadline, upon payment of a specific fee, in what is called the extraordinary deadline.

As provided in articles 35, 36, and 37 of INPI Ordinance No. 8/2022, in the event of partial approval of a trademark registration application, the following guidelines must be observed:

- Payment of fees related to the grant in the classes in which the registration application is granted, even with restrictions or an ex officio change in the specification of goods and services, must be made within the ordinary period of 60 (sixty) days after publication of the partial approval order in the RPI or within the extraordinary period of 30 (thirty) days after the end of the ordinary period, under penalty of archiving the entire registration application.
- Payment of fees related to the granting of registration in the classes in which the registration application is granted on appeal must be made within the regular period of 60 (sixty) days after publication of the appeal decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the regular period, under penalty of shelving the entire registration application.

- If a withdrawal is filed for all classes granted in the partial grant, the registration application will not be shelved. Likewise, if a withdrawal is filed for all classes granted on appeal, the registration application will not be shelved.

Once fees have been paid in due time, the registration will be granted and is effective for ten years from the grant date. If the final fees are not paid, the application shall be shelved, ending the administrative process.

As established by Chapter X of INPI Ordinance No. 8/2022, the trademark registration certificate and its duplicate, is issued exclusively in digital format, through electronic signature issued by the Certification Authority, as established in the standards of the Brazilian Key Public Infrastructures (ICP-Brazil). It is worth noting that it is not necessary that the holder or his representative have a digital certificate to obtain the registration certificate.

Access to the certificate is made on the INPI website, as per the instructions of letter "e" of item 3.10.2 Search on the basis of trademarks.

Appeal

If the requested symbol is deemed unregistrable in all classes in light of the prohibitions set forth in the LPI, the application will be denied. If the requested sign is deemed unregistrable in some classes, or if there is a restriction or ex officio change in the specification of goods or services, the application will be partially granted. Such decisions may be subject to appeal, which must be filed within 60 (sixty) days from the date of publication of the decision denying the application.

Nullity

Once trademark registration is granted, it may be canceled administratively through Nullity Administrative Procedure (PAN), for which the filing deadline expires 180 days from the date of issue of the granting registration/publication certificate.

Registration may also be annulled by the courts. As determined by art. 174 of the LPI, the Nullity action prescribes five (5) years from the date of granting the registration.

3.10 Process monitoring

The official means for monitoring of processes is the Journal of Industrial Property (RPI), published weekly in electronic format and available on the INPI website.

The publication of the RPI occurs every Tuesday except for public holidays, when it is published on the first working day thereafter. The observance of the date of publication in the RPI is important as it begins the count of the legal deadlines for trademark applications, registrations and petitions.

The user can perform a search for information through the Find field in the journal in its PDF version, using the case number or name/company title.

INPI also offers the RPI in XML format in order to assist the reading of the data published in the journal for particular systems management and monitoring of processes. This format, however, is not the official means of publication of INPI and it is not recommended for monitoring individual processes.

Additionally, two unofficial auxiliary means are also offered for the user to keep up to date on the progress of their applications, registrations and petitions: the Search in the trademark database and the My petitions module.

3.10.1 My Orders

The module "My Orders" is an attachment mechanism for the monitoring of an application/registration, however, not replacing the official means: The Journal of Industrial Property. The goal of the system is basic information, via email, on the occurrence of publications related to pre-registered processes by users. After receiving the email, the applicant must have access to the RPI, on the INPI website, to access the publication and take appropriate action as may be the case. The user should be aware that the use of the module My Orders is subject to the rules of the Term of Agreement of the e-INPI user, subject to applicable legal standards and conditions of use, set out in the Terms.

The tool is available through logged on access to the Search on the basis of trademarks. After logging in, the user will need to look for the process they want to track, access it and select the checkbox "My Orders". It is worth observing that the process will be available for follow-up after its publication in the RPI.

To check the list of processes that are already being monitored, the user must access the link "My Orders".

3.10.2 Search on the basis of trademarks

Searching on the basis of Trademarks allows both the monitoring of a specific trademark application or registration, in the "Query by process number," as well as a trademark search with parameters entered by the user in "Search by trademark," and even the "Search trademarks assigned to a particular holder." It is also possible to access the content of applications and petitions submitted electronically, available in PDF format.

a) Follow-up requests or specific records

The monitoring of the application or registration of the trademark through Searching on the basis of Trademarks is an accessory monitoring mechanism and not the official medium, which is the Journal of Industrial Property. Thus, for a more detailed description of the published decision, the RPI should be consulted. Searching on the basis of Trademarks also allows the user to track the processing, orders and decisions on petitions filed with the application or registration.

To make a Search on the basis of Trademarks, the user must have on hand, the application/registration number for which they want to search and access the Search module, on the INPI portal.

b) Search of earlier trademarks

Searching on the basis of Trademarks itself is a free way for the applicant to find previous trademarks of others already published that may be hindering the future registration of the trademark applied for.

For more complete results, multiple searches for the same symbol should be made, preferably using the "the Search by radical.".

The results should be interpreted as merely indicative and other reasons may be found by INPI for the refusal to register based on trademark legislation.

c) Search by holder

By searching on the basis of trademark any interested party, free of charge, can search any trademarks that are under a certain holder.

d) Display of applications and filed petitions

Viewing of applications and filed petitions is possible only when the user enters their login and password to access e-INPI services. In the details of the process, if any document is available for viewing, a PDF icon appears on the line of the petition concerned. Just click once on the PDF icon on of the desired application, to view the document.

It must be highlighted that there are certain rules regarding the availability of PDF files. These are linked to the type of dispatch necessary and the release of documentation. For example, an opposition petition is available from the date of its notification. Furthermore, paper documents not yet scanned are not available.

e) Viewing registration certificates

Viewing the trademark registration certificate is only allowed by the holder thereof or their attorney, and only with login and password to access the e-INPI services. If the certificate is available, it will include an icon to download the PDF file in the line corresponding to the Dispatch service of the registration certificate, as per the following example:

Nº do Processo:
 Marca:
 Situação: Registro de marca em vigor
 Apresentação: Nominativa
 Natureza: Produtos e/ou Serviço

Classificação de Produtos / Serviços

Classe de Nice	Situação da Classe	Especificação
NCL(11) 40	Vide Situação do Processo	Beneficiamento da castanha-de-caju;Beneficiamento de aliment...

Titulares

Nome
Titular(1):

Representante Legal

Nome
Procurador:

Datas

Data de Depósito	Data de Concessão	Data de Vigência ?
19/06/2020	20/04/2021	20/04/2031

Prazos para prorrogação de registro de marca

	Prazo Ordinário	Prazo Extraordinário
Início	21/04/2030	21/04/2031
Fim	20/04/2031	20/10/2031

Petições ? [Listagem de Terceiros Interessados Habilitados]

Pgo	Protocolo	Data	Img	Serviço	Cliente	Delivery	Data
✓		29/03/2021	-	372			-
✓		19/06/2020		389			-

Publicações ?

RPI	Data RPI	Despacho	Certificado	Inteiro Teor	Complemento do Despacho
2624	20/04/2021	Concessão de registro		-	
2612	26/01/2021	Deferimento do pedido	-		
2584	14/07/2020	Publicação de pedido de registro para oposição (exame formal concluído)	-	-	

the public, through login, in the "Certificate" field, which appears in the table of publications related to trademark registration.

3.11 Viewing documents online

It is possible to view petitions filed with processes, through the Search on the basis of trademarks. Therefore, the user should enter their login and password to access the e-INPI services and perform a search for the process number of the documents which they want to access.

Petitions available for viewing will be accompanied by a PDF icon, simply click on it to download. Remember that opposition, forfeiture and administrative nullity petitions are available only after their notification.

4. Formal examination

4.1 What a formal examination is

A formal examination is the stage in which the necessary formal conditions for the continuity of the process are verified. If these conditions are met, the application for registration is published in the Journal of Industrial Property (RPI). Everyone will be advised when an application has been filed and, from that point, begins the 60 (sixty) day deadline for third parties to submit objections, pursuant to art. 158 of the LPI.

A formal examination checks to see if there are any discrepancies between the data entered by the applicant, with regard to the trademark and its submission, union priority, attorney, declared activity, as well as other documents attached by the petitioner. The main purpose of this step is to ensure that the application is published correctly in the RPI, helping the user to have their trademark registered in the trademark database as requested and so that third parties can obtain clear and correct information about all filed processes, so that if they wish, file an opposition.

Any adjustments made in the formal examination stage, especially with regard to the nominative element and presentation of the mark, make for a consistent database, which offers greater reliability for prior searches conducted on the INPI website or made during a merit examination.

4.2 Formal examination procedures

A formal examination includes the verification of the data and the application for registration documents in order to verify their compliance. At this stage, the assessment of the items below is performed by following the guidance provided:

4.2.1 Protocol data

The case number and the date and time of filing data contained in the form are not compared with those indicated in the examination system, since such data are automatically migrated from the protocol to the process or petition.

4.2.2 Details of applicant

The name/company name and the address contained in the form are not compared with those indicated in the examination system, since such data is automatically migrated from the GRU generated in the application process.

4.2.3 Details of attorney

In the case of applications filed electronically, comparing the prosecutor's information present in form with those contained in the system is not performed, given that the data from the application filed electronically is automatically transferred to examination platform.

In the case of an application filed on paper, the attorney details contained in the form are compared with those present in the system, given the possibility of error or data failure.

4.2.4 Trademark details

Submission

At the time of submission, users must determine whether the symbol being submitted is an application for a figurative, combined, three-dimensional or word trademark.

Thus, if there is a discrepancy between the displayed symbol and the form of presentation indicated by the applicant, what in the trademark image always prevails, and the necessary corrections must be made to the system so tha the application be published without inconsistencies.

The following changes may occur:

a) Applicant submitted a combined mark, but stated that it is figurative:

The submission is changed to "combined" by filling in the "nominative element of the trademark" field in the system.

b) Applicant submitted a figurative mark, but stated that it is combined:

The submission is changed to "figurative" by filling in the "nominative element of the trademark" field in the system.

Nature

In the case of applications filed electronically, the trademark nature information on the form is not compared with that contained in the system, as the data from the electronically filed application

is automatically transferred to the review platform.

In the case of applications filed on paper, the trademark nature on the form is compared with that contained in the system to account for the possibility of errors or omissions.

In applications for goods or services of the trademark registration erroneously filed as a collective or certification mark, the user may request a correction of the trademark nature by filing a Data Correction petition in the process due to an error by the interested party (code 378).

Wordmark or Word Part of a Combined or Three-Dimensional Mark

It will be verified whether the nominative element contained in the image of the combined or three-dimensional mark corresponds to what was declared in the nominative element of the mark or word part of the combined or three-dimensional mark field.

The "nominative element" field may be changed ex officio, so that negligible components of the trademark are not indicated, intended only to inform data unrelated to the trademark set itself.

If there is any discrepancy, that appearing on trademark image will prevail, and the necessary corrections are promoted on the viewing platform, so that the application may be published without inconsistencies.

Mark image

During the formal examination, the following requirements of the trademark image are considered:

- a) Clarity problems;
- b) Submission of duplications or variations of the trademark;
- c) Erasures in the trademark image.

If the trademark image incurs any of the circumstances listed above, the application will be subject to a formal demand.

Regarding item b above, the requirement will be considered satisfactorily met if the applicant states that it wishes to continue with the symbol as filed. However, during the merits review, if it is determined that the symbol consists of variations of a trademark, the application will be rejected based on art. 155 of the IPL. Finally, it should be noted that, in the event of a waiver, the use of the trademark as granted must be proven.

Classification of figurative elements

During the formal examination, the Vienna International Classification of Figurative Elements (CFE) indicated by the applicant may be changed ex officio in order to make it more precise in terms of the description of the elements that make up the trademark.

4.2.5. Nice Classification

In applications filed on paper, it is checked whether the Nice class number (international classification of goods or services) in the system corresponds to that on the form submitted by the applicant. The information in the form submitted by the applicant shall prevail with respect to the information on the examination platform. In case of inconsistencies, the necessary changes are promoted, given that the system information is what will be published in the Journal of Industrial Property.

4.2.6 Specification of goods and services

In the case of applications filed on paper, the goods and services specification details on the form are compared with those contained in the examination system in order to identify a possible error in data entry.

4.2.7 Priority

It will be verified whether the priority data and the trademark data correspond to the data in the attached priority documentation, if this was presented at the time of filing.

In the event of any specific discrepancies between the priority details stated in the form (number, country and date) and those in the documentation, that which is contained in the priority document will prevail, and the necessary corrections in the system made. Having discrepancies among the priority data stated in the form (number, country and date) and those in the documentation, including between those of the priority document trademark and filed trademark, a formal demand for clarification will be made of the applicant.

If the priority document is not submitted at the time of filing, the priority data provided on the form will be considered correct.

4.2.8 Attached documents

The attached documents will be checked to ensure they are legible and that what the user stated on the form is actually attached to the application.

The documents must be clear and without erasures, under penalty of a formal demand. For applications submitted on paper, prior to formulating the requirement for legibility, a physical process is required in order to verify possible scanning failures.

Remember that what are called "clean erasures", markings made in order to limit the scope of the powers granted by the mandate, are not subject to formal demands.

If priority documents are submitted and do not meet the formal requirements highlighted above, they will become the target of a formal demand.

If the power of attorney is submitted at the time of filing, the following details will be checked:

- a) Information on the grantor(s) and grantee in the power of attorney;
- b) Date of signature;
- c) Signature(s);
- d) Granting powers of representation with INPI
- e) Details of the power of attorney match the application/petition (the power of attorney refers to the trademark that was requested/the grantor(s) is/are the applicant(s) of the application/petition);
- f) Granting powers to receive judicial summons (art. 217 of the LPI), in the case of the grantor being domiciled abroad.

In trademark registration applications under a co-ownership regime, if the petition is filed by a sole attorney-in-fact, the grantee will be verified to ensure that the grantee has the power of attorney to represent all applicants. All applicants must sign the power of attorney as grantors and be duly qualified.

If the petition is not filed by a sole attorney-in-fact, that is, if it is filed by one of the applicants or by an attorney-in-fact without the power of attorney to represent all applicants, the existence of documentation proving the joint performance of the act will be verified, bearing the signatures of all applicants or their respective attorneys, in compliance with the provisions of Article

57, §1, of INPI Ordinance No. 8/2022. If any applicant is represented by an attorney-in-fact, the respective power of attorney will be verified in accordance with the criteria for reviewing this instrument.

In the event of the absence or discrepancy in any of these details, formal demands will be made, pursuant to Art 21 of INPI Ordinance No. 8/2022. If the date is not provided, the power of attorney is considered dated upon its presentation at the time of filing, as inferred from Article 409 of the Code of Civil Procedure, not giving rise to the formulation of a demand. If the applicant invokes, in his response, the deadline for power of attorney for the instrument specified in § 2 of art. 216 of the LPI (60 days from the filing of the act), the requirement will be considered fulfilled, but the publication of the application will only be carried out after expiry of the said period.

Additional information on the examination of the power of attorney instrument can be obtained in item 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

4.2.9 Declaration of activity

This field is unique for applications on paper, given that, in electronic form, the applicant declares, under penalty of law, that they exercise activity compatible with the goods or services claimed. This field must be mandatorily filled out. The failure to complete the statement of activity and the absence of a document attached to the application, which contains the applicant's activity will entail a formal demand.

If there is a document attached to the application containing the applicant's activity, even if this has not been filled out in the form, the formal examination should continue, being highlighted that although the field has not been completed, it contains documentary evidence of activity attached to the registration application.

The submission of any petition within the legal period to perform the acts referred to, containing the applicant's activity, eliminates the need for a formal demand, being recorded in the dispatch the reason why the formal demand was not made.

When reference is made to an attached document in the aforementioned field, it is necessary to verify whether such document is in the file and is legible. The lack of the indicated document will give rise to a formal demand.

4.2.10 Signature and identification of application

This field is exclusively for applications on paper, which should be identified and signed. If the application is not signed and is not identified, a demand must be made.

If the application is signed and is not identified, but it is possible to identify the signatory in the attached documents, the formal examination may proceed.

If the application is signed and is not identified, and it is not possible to identify the signatory in the attached documents, a requirement will be formulated.

If power of attorney has been given and the application has been signed by the attorney, the attorney's name will be included in the system's bibliographic data.

4.2.11 Examination of compliance with formal demand

Aiming to take advantage of the act by the party, any application can be accepted as compliance with formal requirements, provided it is filed on time. On completion, the formal demand will be checked for compliance to see if it occurred within the statutory deadline and, taking note of the elaborate formal demand, whether it was satisfactorily completed.

If the demand has been answered on time, but has not been complied with, a new formal demand may be formulated.

Applications whose formal requirements are not met within the legal deadline will be considered non-existent under Article 157 of the LPI.

4.3 Applicable dispatches

Formal demand

If any irregularity is identified in the formal examination formal demands are made to the applicant, who must meet them within five (5) calendar days from the first business day following the date of publication of the formal demand. After meeting the requirements, the application is published in the RPI for possible comments from third parties.

How to request a service	
Service:	Formal demand compliance due to formal examination of the registration application
Code:	338
Additional information:	3.6.1 Petitions relating to compliance with formal demands 3.9 Next steps to the submission/protocol Payment table

Application approved for publication

Applications that do not have defects or inconsistencies and of which the typing and scanning are correct may be published in the Journal of Industrial Property, opening the period of sixty (60) days for the filing of oppositions.

Application considered nonexistent

Applications for trademark registration may be considered nonexistent for the reasons below:

- Fee payment is missing;
- Fee payment at a date after sending the electronic form;
- Lack of response to the formal demand, within the legal deadline;
- Lack of response to the formal demand for payment.

Unknown petitions

The dispatch of an unknown petition applies to petitions for compliance with a formal demand filed after the legal deadline, except in the case of return deadlines.

Annulment of dispatches

The annulment of a dispatch must be promoted in cases of mistaken publication of inadequate dispatches, for the conditions of the application or petition, as in the cases below:

- Application should not be published for opposition, but must have been the target of a formal demand.
- The type formal demand chosen does not apply to an application/petition.

For cases in which the application is published in error, differing from that which was requested, the applicant may request that the application be republished.

4.4 General remarks

Applications that reach formal examination have already passed the payment confirmation stage, meaning that the formal examination evaluates the previously highlighted formal aspects.

The following situations do not give rise to formal demands:

- Lack of submission of the Union payment form (GRU);
- Failure to fill in the Register field in the Board or notary office;
- Failure to fill in the Place/Date field, given that the application has a protocol with date and time;
- Fault or error in filling out the document data storage field, given that the GRU used for the request is linked to the process number.

5. Substantive examination

The substantive examination of an application for trademark registration is the stage in which it is checked for whether the claimed symbol meets the conditions provided for in law, meeting the following criteria:

- The mark must consist of a visually perceptible sign;
- The signs must be perceptibly distinct to point out and distinguish goods or services from others of a different origin;
- The desired trademark may not impose upon any legal prohibitions, either in terms of its own constitution, its character of lawfulness and truthfulness or its condition of availability.

The application for trademark registration is analyzed on the basis of these conditions, in addition to its own examination. Preliminary examinations include the presence and regularity of the required documents, as well as any discrepancies between the data provided by the owner in the initial application and those presented in the system. The adequacy of the specification of goods or services to the claimed class(es) is also verified, and other applications related to the process that may affect the outcome of the examination are also considered.

After these tasks are done, and if no problem is detected that gives rise to the need for a formal demand, the examination continues, following the steps set out in art.25 of INPI Ordinance No. 8/2022, described in item 5.7 Substantive examination analysis steps.

In accordance with art.26 of INPI Ordinance No. 8/2022, the search for impeding prior art is made only in the class(es) of goods and services claimed. If the search pinpoints applications or records allocated in other classes, it is checked whether the goods or services designated by previous registrations in question retains marketing affinity with the items present in the specification of the application in question.

The examination in accordance with these conditions, will give rise to a dispatch deciding its acceptance, rejection or dismissal.

5.1 Order of exam queues

As established in Chapter IV of INPI Ordinance No. 8/2022, the substantive examination is composed of two examination queues, independent from each other:

a) Unopposed Requests:

Encompasses those registration applications that, after a period of sixty (60) days provided for in the caput of art. 158 of the LPI, with no third-party objection proceedings.

b) Opposed applications:

This database includes all registration applications that have been subject to opposition filed by third parties, regardless of whether the applicant has submitted a statement. These applications will be decided by officials who meet the following requirements:

- Have delegated authority;
- Have received specific training for the opposition examination;
and
- Have high technical and professional qualifications in the field of trademark law.

Due to the requirement for greater complexity in their analysis, requests with opposition may require a longer waiting period than that observed for requests without opposition.

Queue for collective and certification marks, three-dimensional marks, and position marks

Applications for registration of collective, certification, three-dimensional marks, and position marks are also subject to their own examination queues, established by Chapter IV of INPI Ordinance No. 8/2022.

5.2 Exam deadlines

After the expiry of 60 (sixty) day deadline for the filing of opposition, provided for in the caput of art. 158 of the LPI or, in the case of third-party opposition proceedings, after an additional 60 (sixty) days for submission of protests provided for in § 1 of the same law, the application for trademark registration will be ready for examination. The deadline for its final analysis depends on the backlogs and processing capacity of the agency, subject to the provisions of section 5.1 Order of exam queues.

Examination priority

Only applicants (individuals) elderly, persons with physical or mental disabilities or serious illnesses are entitled to priority in examination, in accordance with art. 69-A of Law No. 9,784, of 29 January 1999.

5.3 Administrative correction of bibliographic data

Attorney

Information relating to the attorney will be changed ex officio in cases of error or omission of the declared attorney in petitions and applications filed on paper.

There will also be ex officio changes in the attorney details in the event of any discrepancy between the information in the examination system and electronic form, whichever data is present in the latter.

Changes and removal of representatives must be requested through a specific application, detailed in item 3.6.4 Petitions relating to power of attorney. Additional information about the power of attorney and guidelines for its review can be found in items 3.7.1 Power of attorney and documentation relating to joint performance of acts, and 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

Trademark

The mark will be officially changed in the case of a discrepancy between the word statement and the words or expressions contained in the combined submission, whichever text is present in the figure.

Example:

Combined submission	Part nominative statement	Orientation
	MARIANA	The declaration of the nominative part of the symbol will be changed to "MARIANNE", adapting it to the image of the submitted mark. No publication of the application is required.

Nominative trademarks published with the use of capital and/or lower case letters, different from that claimed in the initial petition, will also be corrected and exempt from republication of the application.

Information on changing the trademark symbol, made upon request by the user, can be found in item 9.1 Changing the trademark.

5.4 Analysis of the specification of goods and services

During the examination of a trademark application, the correctness and the specification adequacy of goods and services is verified. This step is crucial, since the specification defines the scope of protection of the trademark. Thus, any kind of inadequacy, discrepancy or doubts are sanitized, either through changes or formal demands.

Upon the final decision in the merit's examination, the status of the class(es) will be updated based on the review of the goods and services specifications, in accordance with the procedures set out in item 5.18.2 Treatment of Class Status. It should be noted that, in interlocutory or preliminary decisions on the merit's examination, the class statuses will remain unchanged.

For applications filed directly with the INPI, the entry into force of the procedures described in item 5.18.2 Treatment of class status is subject to the availability of the petition for multi-class applications in the e-Marcas system.

5.4.1 Changes in the specification

Changes, necessary for the adaptation of the specification to meet Nice International Classifications will be promoted, ex officio, in the following cases:

- a) Any specification can be allocated to another class;
- b) A significant part of the specification pertains to the claimed class;
- c) The terms of the specification can be changed to the point of becoming sufficiently clear and precise.

Once the petition for multi-class applications is made available in the e-Marcas system, the procedures described below will apply.

Any necessary changes to adapt the specification to the Nice International Classification will be made ex officio in the following cases:

- a) The items in the specification may be allocated to other classes, provided that the total number of classes resulting*

from the change does not exceed the number of classes claimed at the time of filing;

- b) The terms contained in the specification may be changed to the point where they become sufficiently clear and precise.*

The filing of applications for registration in a multi-class system is not yet available in the e-Marcas system.

When promoting, ex officio, changes to the specification, the INPI may exclude generic terms and goods and services not classified within the claimed classes, with such change being reported in the order.

5.4.2 Specification incompatible with claimed class

In the case of incompatibility between the specification and claimed class, the possibility of official change will be verified, according to guidelines set out in item 5.4.1. Changes in the specification. If the specification does not fit into the eligible hypotheses of change referred to in that subsection, a formal demand is made on the applicant to resubmit specifications, indicating the goods or services of a single class, and this must comply with the edition of the Nice International Classification (NCL) in force at the time of filing.

Once the petition relating to the multiclass system is made available, the procedures described below will apply.

If it is not possible to make the official changes as provided for in item 5.4.1. Specification Adjustments, requirements will be formulated for the applicant to:

- a) Pay a supplementary fee for the inclusion of new classes or designate whether they wish to exclude goods or services, in order to adapt the specification to the number of classes claimed at the time of filing;*
- b) Resubmit the specification with sufficiently clear and precise terms.*

The requirement must be met in the edition of the Nice International Classification (NIC) in effect on the date the application is filed.

In compliance with the requirement set forth in item "a" above, if the applicant fails to pay the additional fee for the inclusion of new classes and fails to designate the goods or services to be excluded from the specification, the INPI will make the necessary adjustments ex officio.

The petition regarding registration requests in a multiclass system is not yet available in the e-Marcas system.

Additional information about the change of class or applicant's specification request can be found in section 9.2 Change related to classes and specification of goods and services.

5.4.3 Specification containing pre-approved terms

The specifications of goods and services consist of pre-approved terms by INPI which are exempt from analysis of their classification suitability for the claimed class. However, pre-approved terms may be subject to the formulation of requirements for other purposes, such as, for example, proving the legality of claimed goods or services or the compatibility of the declared activity.

Since 03/11/2014, when the electronic form with free-to-fill specifications was adopted, any attachments containing additional specifications are not accepted. As provided in art. 7, §1, of INPI Ordinance No. 8/2022, such attachments will not be recognized by INPI, and such decision must be included in the order to be published in the RPI.

5.4.4 Specification containing equivalent terms to registered trademarks

Some trademarks are often confused by consumers with the goods or services they represent. Such terms or phrases must not be included in the specification of goods and services because they are registered trademarks. Moreover, when they appear on the trademark, these symbols do not fall under the provisions of section VI of art. 124 of the LPI, and the prohibition contained in item XIX of art. 124 LPI applies if prior impediment is pointed out in the search or by contesting parties.

When such trademarks are provided in the specification, they will be replaced by actual names of goods or services.

5.4.5 Specification Containing Geographical Indication

Items of the specification containing geographical indications registered in Brazil or pending administrative review by the INPI will be automatically excluded from the trademark specification of goods or services, being replaced by the name of the goods or services designated by the respective geographical indication.

The list of geographical indications registered in Brazil, as well as the respective designated goods or services, is available on the INPI Portal.

When the name of the goods or services designated by the geographical indication is too long, appropriate adaptations will be made.

If it is not possible to identify the goods or services designated by the geographical indication, an application may be made for better adaptation of the specification, with the consequent republication of the application if the change is substantial.

Required specifications	Approved specification
Wines with the "Champagne" designation of origin	Sparkling wines
Cognac	Wine distillate; wine brandy
Tequila	Tequilana Weber blue agave distillate
Cachaça	Sugarcane brandy

5.4.6 Specification containing terms equivalent to goods or services considered illegal

In cases of specifications containing goods or services considered illegal under Brazilian law, or when there is doubt as to their legality, a requirement will be formulated for the applicant to clarify their legality or to replace them with legal items compatible with the claimed class.

If, in compliance with a requirement, the original illicit items are requested to be retained, the following guidelines apply:

- Specifications consisting solely of illicit goods or services will be denied for violating the provisions of Art 128, §1 of the LPI.
- Specifications containing both licit and illicit goods or services will be reviewed, removing the items deemed illicit under Brazilian law, in accordance with Art 128, §1, of the LPI. Partial approval of the specification will be announced upon decision, as it is subject to appeal.

If goods or services deemed infringing are replaced with lawful descriptions, the application will be republished. If the removal of the infringing item(s) is requested, the application will continue to be reviewed without republishing it.

The understanding expressed herein also applies to the review of registration applications whose applicant holds a previously registered trademark to identify goods or services that fall under this category.

Lottery Services

The services "LOTTERY OPERATION" and "LOTTERY TICKETS SALE" are among the activities provided by Caixa Econômica Federal licensees and their counterparts at the state level, and their performance is lawful provided the conditions established in the bidding process are met. Thus, no requirements will be imposed on trademark registration applications that intend to identify "LOTTERY OPERATION," "LOTTERY ACTIVITIES," or other similar services. The qualification "[LOTTERY TICKETS SALE]" will be applied immediately after the aforementioned item(s) in the specification.

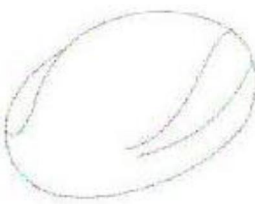
It is worth noting that, in view of the provisions of art. 4 of Decree-Law No. 6,259/44, the aforementioned exception will not be applied to trademark registration applications filed by Caixa Econômica Federal itself and by similar institutions at the state level, to identify such services, since they are legally authorized to explore all activities provided for in lottery services.

5.4.7 Specification of Priority Applications

During the review, the correspondence between the items claimed in the documentation supporting priority and those declared in the specification of the application filed in Brazil will be verified in order to determine the goods or services for which priority will be accepted.

5.4.8 Specification of Three-Dimensional Trademark Applications

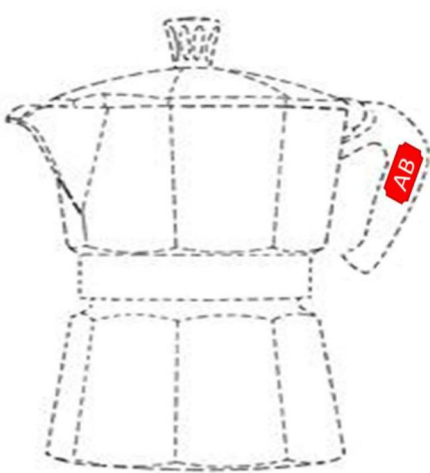
The application specification must precisely indicate the purpose of the three-dimensional trademark, which, unlike traditional trademarks, may be limited to a smaller range of goods or services due to its plastic form. Therefore, it will not always be possible for a three-dimensional object to represent the entire scope of a class of goods or services, due to the limitations inherent to its shape.

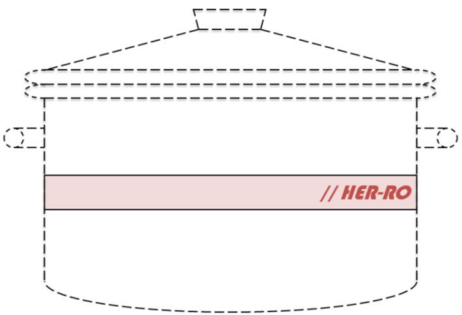
Trademark	Specification	Remarks
	Bottle of hair styling cream that marked several items in class 03,	In the case of shapes that constitute the product itself or its packaging, the signs are only registrable if the specification is suitable for the claimed shape.
	Product form (soap) that marked several items in class 03, including "flexible rods", "towels" and "face tissues".	

5.4.9 Specification of Position Mark Applications

The specification must be limited to goods or services compatible with the medium represented in the trademark image. Goods or services incompatible with the medium represented in the image will be automatically excluded. In case of doubt, the applicant will be required to clarify the discrepancy or adjust the specification.

Examples:

Marks	Specification originally filed
	Class 21: Non-electric coffee makers and kettles; teapots; jugs; bottles; pans; tabletop cutlery rests; sink plungers.
	Specification accepted by INPI, after official adaptation The items "bottles," "pots," "tablecloth rests," and "sink plungers" were officially excluded because they were not compatible with the format represented in the image. After official adjustments, the following specification was accepted by the INPI: "Non-electric coffee makers and kettles; teapots; jugs."

Marks	Specification originally filed
	Class 21: Non-electric cooking utensils; kitchen utensils.
	Specification accepted by INPI, after official adaptation The specification presented is considered generic for a positional trademark registration, requiring the applicant to detail the products the trademark aims to distinguish. After formulating the requirement, the following specification was accepted by the INPI: "Pots; saucepans; cauldrons; deep fryers, non-electric."

5.5 Analysis of applicant's legitimacy

Industrial Property Law, in its art. 128, provides that individuals and legal entities governed by private law can only claim a registration trademark on the activity that they are effectively and lawfully engaged in, directly or through companies that they directly or indirectly control, declaring this condition in the application itself, under penalty of law.

The legal requirement to have compatibility between the claimed goods or services under submission, with those produced/ marketed or provided by the applicant, must be mandatorily observed by applicants of the registration applications, with regard to goods or services trademarks, under penalty of rejection, in the case of an application, or nullity, in the case of registration.

The substantive examination checks whether the goods or services claimed are compatible with the activity, exercised effectively and lawfully, by the applicant, declared at the time of filing of the application, according to the nature of the trademark. When there is doubt, applicable requirements are formulated.

5.5.1 Declaration of activity

The specification of goods and services demanded by the user in their application for trademark registration must be consistent with the declaration of activity undertaken by the applicant, pursuant to the first paragraph of art. 128 of the LPI.

Art. 128. (...)

§ 1 - "Private persons may only apply for trademark registration on an activity, engaged in effectively and lawfully, directly or through companies that they control, directly or indirectly, by

declaring this condition, in the application itself, under penalty of law.”

The applicant is required to submit the declaration in applications on paper, and must, in electronic form mark the corresponding square. However, that provision does not exempt the applicant from providing documentary proof of the veracity of the declaration submitted if deemed necessary.

It should be noted that, in accordance with § 4 of art. 128 of the LPI, the priority claim does not exempt the application from other provisions of art. 128 of the LPI

5.5.2 Goods or services arising from main activity

Registration applications intended to designate goods or services that do not literally correspond with the declared activity, but that can be classified as an ancillary activity, will be examined, per se, in order to effectively check whether goods and services stems naturally from the main activity.

Example:

Class/Specification	Declared activity	Notes
NCL 37 Installation, maintenance and repair of electrical and electronic appliances	Manufacture and sale of electrical and electronic equipment.	In this case, it is considered that the specified service stems from the declared activity.

There being a contractual amendment modifying the clause relating to the corporate purpose, an examination of the rule contained in § 1 of Art. 128 of the LPI will be conducted taking into account the contents of the current clause at the time of submission.

5.5.3 Legitimacy of an individual

With regard to trademark applications filed by individuals, the applicant may submit any and all evidence, admitted by law, provided that it is subject to petitioning, that leads to conviction regarding the effective and lawful exercise of the activity, such as, for example, university diplomas, certificate of completion of courses, portfolio issued by Professional Councils (CREA, CRM, OAB etc.), contracts for services, advertising material and publicity, among others.

5.5.4 Holder under 18 years of age

Minors under 18 years of age may be trademark registration holders, subject to the following conditions:

- a) Minors under sixteen (16) years of age must be represented in the act of trademark registration application, pursuant to art. 3, item I of the Civil Code.
- b) Individuals over 16 (sixteen) and under 18 (eighteen) years of age may apply for trademarks, provided they are given assistance, in accordance with art. 4, section I of the Civil Code. The relatively incapable, as provided for in items II and III of art. 4 of the Civil Code, may also apply for trademarks when assisted, under the terms of civil legislation.

Information regarding the registration of a civil name of those under 18 years of age, as a trademark, can be found in section 5.11.14 Name, surname and image of third parties.

5.5.5 Certification marks

Applicants for applications for collective trademark registration may exercise an activity different from that performed by their members, however compatible, and their applications must identify the goods or services stemming from members of the collective, as provided in art. 128, § 2, of the LPI. Remember that only the entity that represents a collective (association, cooperative, union, federation, confederation, consortium, among others) can apply for collective trademarks.

5.5.6 Certification Marks

Art. 128 of the LPI, in its §3, establishes that only individuals or legal entities governed by public or private law without a direct commercial or industrial interest in the goods or services to be certified may apply for a certification mark. Therefore, when examining a certification mark, it is verified whether the nature of the activity carried out by the applicant characterizes them as an economic agent involved in the production, marketing, or supply of the goods or services that the mark aims to certify. If the applicant's direct interest is established, the application will be denied for non-compliance with the provisions of said legal provision.

According to AGU/PGF/PFE/INPI/COOPI Opinion No. 33/16, associations composed of economic agents involved in the production, supply, or marketing of the goods or services to be certified, as well as

unions or other organizations representing the interests of such agents, do not have standing to apply for certification marks.

5.5.7 Condominium activity

The Opinion of INPI/PROC/DIRAD/No. 01/06, states that, due to the lack of legal provision in the Civil Code of the figure of combined-property condominium in its list of companies, condominiums have no legitimacy to require a trademark with INPI, by not meeting the provisions of art. 128 of the LPI:

Art. 128 - Those that may make an application for trademark registration, are individuals or legal entities governed by public law.

§ 1 - Private persons may only apply for trademark registration of an activity, engaged in effectively and lawfully, directly or through companies that they control, directly or indirectly, by declaring this condition, in the application itself, under penalty of law.

(...)

5.5.8 Controlling company and subsidiary activity

When exercising activity compatible with the claimed goods or services is through direct subsidiary or indirectly by the applicant, it is necessary that such a condition is declared at the time of application, as provided for in § 1 of Art. 128 of the LPI.

5.5.9 Co-Ownership

It is possible to link more than one co-owner or applicant to a trademark registration or application, which will be processed under Chapter IX of INPI Ordinance No. 8/2022.

The group of applicants must be informed at the time of filing. After filing, the inclusion or exclusion of co-owners or applicants must be requested through a petition for annotation of transfer of ownership. Additional information can be found in Chapter 8, Transfer of Rights.

It is possible to include co-owners or applicants in trademark registrations or applications filed before the INPI released the petition for the co-ownership regime for trademarks, which occurred on September 15, 2020.

The co-ownership regime will not be permitted in collective trademark registrations.

It should be noted that the INPI will not record the percentage of ownership held by each co-owner or applicant in the trademark registration or application.

5.6 Analysis of mandatory documents

As part of the substantive examination, the presence and adequacy of mandatory documents is analyzed, and, if necessary, requirements should be formulated to correct and clarify any inaccuracies or discrepancies.

Among the documents subject to analysis are, power of attorney, regulations on the use of collective marks, priority supporting documentation, among others.

5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts

On examination of the power of attorney, it is checked whether it provides the required data referred to in art. 654, § 1 of the Civil Code:

- Grantor information (applicant);
- Grantee information (legal representative of the applicant);
- Types of power granted;
- Date, place and signature of the grantor.

According to the Standard Opinion of INPI/PROC s/n, of 04/05/2000, the following cases will cause formal demands to be made for resubmission of the power of attorney instrument, or for clarification of discrepancies:

- a) Granting of powers in a peculiar way;
- b) Lack of mention of the grantors and/or the grantee;
- c) With data discrepancies (the power of attorney refers to a different trademark that was applied for);
- d) Containing erasures or the document being unreadable to the point that it hinders the identification of the parties;
- e) Lack of date and/or signature;
- f) Lack of powers provided for in art. 217 of the LPI, if the grantor is domiciled abroad.

If the power of attorney does not contain one or more of the mandatory details, or displays conflicting information, or incurs some of the defects listed above, it is necessary to formulate a demand for the presentation of an appropriate document, ratifying

the acts previously performed or with the signature date on or before the petition protocol or registration application. Formal demands will also be made if the wrong document is attached in place of the power of attorney.

Regarding the date, according to Article 409 of the Code of Civil Procedure, if there is any doubt (for example, a missing date on the power of attorney), the private document is considered dated upon its submission to a public office. Therefore, the lack of a date on the power of attorney presented at the time of filing the petition or application for registration will not give rise to a requirement.

In trademark registration applications under a co-ownership regime, if the filing or petition was made by a single attorney-in-fact, it will be verified whether the attorney-in-fact has the authority to represent all applicants, who must sign the power of attorney as grantors and be duly qualified.

When the deposit or petition is not made by a single attorney, that is, when it is filed by one of the applicants or by an attorney without powers to represent all of them, the existence of documentation proving the joint performance of the act will be verified, containing the signatures of all applicants or their respective attorneys, in compliance with the provisions of §1 of art. 57 of INPI Ordinance No. 8/2022. In this documentation, if any applicant is represented by an attorney, the respective power of attorney will be verified, in accordance with the criteria related to the examination of this instrument.

If documentation proving the joint performance of the act has not been submitted, a requirement will be made for its submission. Requirements will also be made for documentation adequacy when, for example, it is presented illegibly, has been erased, is unaccompanied by a translation, is missing the signature of any of the applicants or attorneys, or when it is impossible to identify the signatories of the act performed.

In the case of opposition petitions, administrative nullity petitions, or requests for expiry, the act does not need to be performed by a single attorney or by all applicants or their

respective attorneys, since, according to Article 50 of INPI Ordinance No. 8/2022, these petitions may be submitted by only one of the joint holders of the registration or application on which the allegations are based.

Qualification of signatory

Prior evidence that the signatory has the power to represent the grantor is not necessary, providing that they are qualified as an "attorney" in the power of attorney. However, if other documents produced in the process (Articles of Incorporation or changes to the Articles of Incorporation, for example) indicate a discrepancy in signatory powers, a formal demand will be made.

Foreign holders and special powers referred to in Article 217 of the LPI

Applicants and holders domiciled abroad are required to provide INPI with a duly qualified attorney domiciled in Brazil, as established in art. 217 of the LPI. It is worth noting that the power of attorney granted by a foreigner should include powers to receive judicial summons. If an application filed by an applicant that is domiciled abroad has been filed without the appointment of a power of attorney, a formal demand will be made that the necessary instrument be submitted.

Translation

If the power of attorney has been submitted in a foreign language by the legal deadline, but not accompanied by a corresponding translation, the act of omission by the party will result in a formal demand being made for the translation of the instrument of power of attorney, based on the provisions of article 220 of the LPI.

Digitally signed power of attorney

Pursuant to art. 20 of Law No. 11419/06, powers of attorney may be digitally signed on the basis of a certificate issued by Certification Authority accredited under the law. In this way, proxies containing digital signature will be accepted, not requiring a formal demand for evidence of a certificate of legitimacy.

Expiry date

In the case of power of attorney contains an expiry date, it is checked whether an act was performed during the instrument's term of validity. If not, a formal demand is made for a new valid power of attorney submission valid for the time of the practice or containing the ratification of acts already performed.

Applications by the attorney, not accompanied by a power of attorney document

If the power of attorney is not submitted in the original application, the applicant's legal representative must submit it, through their own petition, within 60 calendar days from the time of filing, under penalty of definitive shelving, as determined by § 2 of art. 216 of the LPI.

Request for Additional Deadline for Submitting a Power of Attorney

After the deadline provided for in Art. 216, §2, of the LPI, any requests for additional deadline for submitting the power of attorney must be submitted as a request for the extension of the deadline, to be reviewed in accordance with Resolution No. 177/2017, under penalty of definitive shelving of the registration application. In the event of extension of the deadline due to the interested party's impediment, the request must be accompanied by evidence proving just cause, as established in the aforementioned regulatory instrument.

Absence of Power of Attorney for applications petitioned on paper

In the case of applications submitted on paper, not being accompanied by power of attorney, in which the box relating to the power of attorney (in the "Attached Documents" field) is checked and does not include observations of the reception regarding the number of pages, a formal demand will be made for the resubmission of the power of attorney.

5.6.2 Document proof of priority

The applicant has up to four (4) months from the filing date to submit valid proof of priority. These documents must contain the identification number, date of submission and a reproduction of the application or registration, including data relating to the marked element, applicant/holder and specified goods or services, accompanied by a simple translation.

Such documentation may consider official copies or reproductions as well as original agency publications or reproductions, even in their online version, being the responsibility of the applicant submit the same. Failure to meet the deadline will entail the loss of priority due to the lack of compliance with the provisions of § 2 of art. 127 of the LPI, with the subsequent republication of the application.

During the examination, the correspondence between the items claimed in the documentation proving priority and those declared in the specification of the application filed in Brazil will be verified, in order to determine the goods or services for which priority will be accepted.

In the case of the omission of data relating to the priority in previous publications, it will be included in the INPI database examination system and the application will be republished.

If the applicant relinquishes priority, by submitting a document with express powers to do so, the withdrawal will be approved and the application republished.

Formal demand

The formulation of a formal demand in relation to priority is made where the applicant provides illegible or incomplete documentation (without translation and/or omission of trademark or holder data from the application). It is worth noting that in cases of priority obtained by assignment, it is necessary to submit documentary evidence of the transfer of ownership of the foreign application/registration, under penalty of a formal demand being made.

In applications for trademark registration under a co-ownership regime, if the group of applicants is different from the group of owners listed in the priority document, an assignment document relating to the priority must be submitted, under penalty of a requirement being made.

Where the document duly indicated/titled as proof of priority provides details unrelated to the claimed priority, a formal demand will also be formulated, taking advantage of the party's actions, in accordance with art. 220 of the LPI.

Absence of documents proving priority in applications petitioned on paper

In the case of applications submitted on paper not being accompanied by documentary evidence of priority, in which the boxes related to "Documents relating to priority claim" or "Proof of submission in the country of origin" (the "Attached Documents" field) were marked and did not include observation of the reception regarding the number of pages, a formal demand will be made for resubmission of the documentation in question.

Data discrepancy

If there are discrepancies between the data (date of submission, the foreign trademark submission/registration number, and country of origin code) entered on the form and that of the accompanying documentation, the information in the documentation will prevail. Only discrepancies regarding the filling date will result in the application being republished.

Priority not claimed in the initial petition

The priority claim must be made at time of submission, as set out in § 1 of Art. 127 of the LPI, but may be supplemented within 60 (sixty) days by other priorities earlier than the date of submission in Brazil.

If the applicant has not claimed any priority in the application and wishes subsequently to declare it, the request is denied in view of the provisions of the legal provision mentioned above.

Declaration of priority

A declaration of priority should contain at least the country and the date of submission or registration, as set out in the CUP:

Art. 4 (...)

DE Item - Anyone wishing to take up the priority of a previous application must make a declaration, indicating the date and the country of that request. Each country will set the time by which this declaration must be made.

Thus, priority claims which do not include data for the country and the date will be rejected, based on item D of art. 4 of the CUP.

5.6.3 Regulations for use of a collective mark

The regulations governing use of a collective mark must include:

- Description of the legal entity applicant, indicating their classification, corporate purpose, address and individuals or entities authorized to represent them;
- Conditions for the eventual withdrawal of the registration application or waiver of all or part of the trademark registration;
- Requirements necessary for affiliation to the collective entity and those persons or companies, associated or linked to the requesting entity, authorized to use the mark in question;
- Conditions for use of the trademark, including the presentation and other aspects related to the goods or services being trademarked;
- Applicable sanctions in the case of inappropriate use of the trademark.

The examination checks whether the submitted document includes all of this information, requiring the issuing of formal demands in appropriate cases, to be answered within 60 calendar days from the date of its publication. In case of non-compliance with the formal demand, the application will be definitively shelved. If a formal demand is complied with, but does not resolve an issue or its formulation is contested, the examination will be monitored with respect to the regulations governing use.

It should be noted that the use of regulation must accompany the application when it is submitted or must be submitted within 60 days after the filing, under penalty of definitive shelving of the application.

5.6.4 Technical documentation for certification mark

The application for certification mark registration is analyzed in accordance with art. 148 of the LPI, which determines that it must contain technical documentation. As provided in Normative Instruction No. 59/2016, the technical documentation must include:

- **Subject of certification:** characteristics of the goods/services indicating quality, nature, material used, dimensions, components, technical conditions, method of product development or service provision, and any other data that are considered relevant by the owner;

- **Means to attest to compliance and ensure control:** methodology used to assess the compliance of the goods/services to be certified, as well as any applicable sanctions in cases of non-compliance with technical requirements.

Additionally, in the case of goods or services requiring mandatory certification, a declaration of the current reference documents, such as ordinances, resolutions, standards, regulations, and others, relevant to the subject of certification, must be submitted, in accordance with AGU/PGF/PFE/INPI/COOPI Opinion No. 33/2016.

It is noteworthy that such documentation must accompany the application upon their submission or be filed within 60 days after the filing of the same, under penalty of the application being archived. It is important to emphasize that the certification mark applicant may not engage in activity that holds a commercial or industrial relationship with the goods or services object of the certification.

Changes to the technical documentation for certification mark applications and registrations must be communicated to the INPI at any time. The content of such changes will be subject to review, and expansion of the scope of the originally requested specification will not be permitted.

5.7 Substantive examination analysis steps

As established by art. 6 of Resolution No. 88/13, the substantive examination consists of the following, not necessarily cumulative:

Art. 6 - (...)

- I) Analysis of lawfulness, truthfulness and distinctiveness of the trademark symbol;
- II) Analysis of the availability of the trademark sign;
- III) Analysis of any opposition and protest regarding the registration application by the applicant; and
- IV) Assessment of mandatory documents owing to the nature and form of the presented signal.

Note: The analysis of the requirements described in item I necessarily precedes the others. Thus, their infringement shall entail the rejection of the application for registration, impairing the verification of the availability of the symbol (section II),

provided that the application under consideration has not been the object of opposition.

If the symbol is considered lawful, truthful and distinctive, it passes on to verification of its availability by means of searches.

5.8 Analysis of lawfulness requirement of trademark symbol

The condition for the lawfulness of a symbol is considered to be its non-legal prohibition for reasons of public order or for reasons of morality and good customs. Protection of the requirement for the lawfulness of a symbol is supported by Article 124 of the LPI, in its sections I, III, XI, and XIV.

5.8.1 Symbol unregistrable due to its official or public nature

Three legal standards were established in the LPI, aimed at preventing the registration of marks that are considered contrary to good public order.

Official symbols and monuments

In accordance with Part I of Art. 124 of the LPI, the following are not registrable as trademarks:

"(...) coats of arms, weapons, medals, flags, emblems, badges and official, public, national, foreign or international monuments, as well as the respective designations, figures or imitations".

For the purpose of this legal standard, the following definitions shall be considered:

Coats of arms or weapons: the insignia of persons, families, National States, Federal Units and Municipalities.

Medal: the insignia of an honorary order or commemorative event or person.

Flag: distinctive symbol of a nation.

Emblem or badge: symbol or hallmark of an institution, society, association, organization, corporation and the like.

Monument: a man-made structure erected to commemorate a famous or notable person, place or event.

Official: that which emanates from or concerns a legally constituted authority;

Public: that which, although not emanating from or relating to an authority, constitutes a common heritage of all.

The prohibition contained in this section is of absolute character, not permitting registration, even if with the consent of the country concerned. Thus, the prohibition by Part I of Art. 124 of the LPI of a trademark registration application that reproduces or imitates a national symbol extends to any applicant, including the National State itself.

Reading the legal provision indicates that there is no distinction among types of applicants since it establishes the absolute nature of the prohibition, whether there is express authorization of the entity represented by the official symbol. Their use, however, is not prohibited, and the protection of such symbols is provided for in art. 6b of the CUP.

A trademark registration containing characteristic elements present in official symbols is also prohibited, because of their reproduction and the unequivocal link that these elements have with their symbols of origin.

	Unregistrable in light of Part I of Art. 124 of the LPI, due to the imitation of the Brazilian flag.
	Unregistrable in light of Part I of Art. 124 of the LPI, due to the reproduction of a characteristic element of the Lebanese flag: 

The protection afforded by this paragraph is true not only of official symbols of government agencies, but also extends to family and universal symbols

	Unregistrable , as it reproduces the name and emblem of Mercosur.
	Unregistrable , as it reproduces the emblem and denomination of the World Intellectual Property Organization (WIPO).

With respect to designations, the legal device clearly states, that a trademark registration, which has as a whole, any official symbol designation, as well as imitations of these designations, is forbidden. Thus, trademark symbols constituted of a proper name will be rejected on the basis of Part I of Art. 124 of the LPI. There are exceptions, however, in cases which the name or designation of the monument is inseparable from the name or the denominations of geographical locations where they are found.

Examples:

BIG BEN	Unregistrable for containing the monument designation.
BRAZILIAN FLAG	Unregistrable for containing an official symbol designation.
CATETE PALACE	Unregistrable for being made up of the monument designation.
EIFFEL TOWER	Unregistrable , since the mark consists of a phonetic imitation of the monument name "Eiffel Tower".
	Unregistrable , since it reproduces the "Eiffel Tower" monument.

Monuments and geographic features

It is observed that, according to the monument definition mentioned above, the geographic features are excluded from the concept of "monument", unless they have received some kind of significant human interference in their form.

SUGAR LOAF	Registrable since the designated geographical feature is not affected substantially by human work.
CORCOVADO	Registrable since the designated geographical feature is not affected substantially by human work.
LAPA ARCHES	Unregistrable , since it reproduces the monument designation.
	Unregistrable , since it reproduces the "Mount Rushmore National Memorial" monument.

Color indication

It should be noted that, although they play an important role in determining the applicability of Art. 124 of Part I of the LPI, the color indications are not necessarily determined as being an imitation of an official symbol. Therefore, the colors will be considered only as a reinforcer symbol of imitation, the most important in this analysis being the formal presentation aspect of of the symbol of the trademark in question.

Stylization of official symbols and monuments

In case of sufficient stylization of official images or their elements, merely suggesting the official symbol, the symbol of the mark shall be subject to registration, however, other legal prohibitions on the symbol in question should be noted.

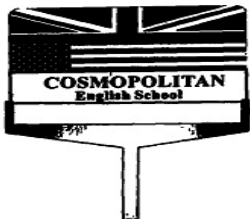
In the analysis of symbols that contain stylizations of monuments and flags, the following factors are taken into consideration in the analysis of registrability:

- a) Degree of stylization (total or partial image, simplification, distortion or repositioning of the components) and uniqueness

- of the monument or flag;
- b) Evocative function of the symbol in relation to the origin or nature of the goods/services. It is the use of elements in symbols or official monuments of a country/city commonly related to goods or services that the symbol proposes, as a food service or language courses, for example. In this case, the use of flag colors or stylized parts of monuments, coats of arms and other official symbols, since they do not induce the public to mistake the origin of the trademarked goods or services.
 - c) Secondary function of the symbol, relative to the required trademark. A monument/flag can only make up part of the set as adornment.
 - d) False connection with a national state. The trademark may not appear to be sponsored by a country, for example.

Examples:

	Registrable. Simplification of lines and use of only part of the monument. The identification of the same is mainly by the nominative part.
	Registrable. Extreme simplification of traits to the point that it decharacterizes the monument.
	Registrable. Use of characteristic features, emphasizing only the most contrasting elements to represent an art form of monument.
	Registrable. Simplification of traits, decharacterizing the monument, which is a secondary element, and using part of it as an integral letter of the nominative element.

	Registrable. Simplified constituent parts of the UK and US flags are shown partially and in a stylized form.
	Registrable. Simplification of traits with a brushstroke aspect, giving it an artistic character. Moreover, suspension bridges are common, and the nominative part responsible for identifying which bridge it is.
	Registrable. Simplified constituent elements of the Brazilian flag used creatively, with the circle as a disc.

Even in cases where the stylization of the monument / flag is sufficient, one should not ignore the possibility that the use of its representation could cause confusion as to the origin of the goods or services, in which case item X of art. 124 of the LPI.

Official seals adopted for standard warranty

In accordance with Part XI of Art. 124 of the LPI, the following are not registrable as trademarks:

“reproduction or imitations of official seals, normally adopted to guarantee a standard of any type or nature”.

For the purposes of applying this legal rule, it takes into account the goods or services to be checked. This means that if the sign is intended to distinguish goods or services that does not keep any relation with the goods or services for which the official stamp is adopted, it will be eligible for registration as a trademark. Otherwise, the symbol will not be eligible for registration, even though accompanied by other elements which are, per se, technically registrable.

	To symbolize the food trade	Unregistrable in light of item XI of article. 124 of LPI since it faithfully reproduces the stamp of the Federal Inspection Service (S.I.F.) attesting to the health standard of food.
S.I.F.	To symbolize a live show production service	Registrable
	To symbolize a jewelry and watch repair services	Unregistrable , compared to item XI of article. 124 of LPI, since the figures in the set are reproductions of symbols used in France to certify the purity of gold.

Star Rating System in the Lodging Sector

With the establishment of the Brazilian Lodging Classification System (SBClass) by the Ministry of Tourism in 2011 (Ministry of Tourism Ordinance No. 100), the star rating system became the official standard for guaranteeing standards in the hotel industry. Therefore, sets of marks consisting of stars identical or similar to those provided for in the aforementioned rating system, intended to identify **lodging services**, are subject to the prohibition set forth in Art 124, Part XI, of the LPT.

In the case of symbols in which the star rating system image is accompanied by other distinctive elements, the applicant will be required to declare their desire to proceed with the registration application by excluding the image in question from the set applied for as a trademark.

However, the requirement will be conditional on the remaining portion of the trademark not altering the main characteristics of the set originally applied for. Furthermore, the resulting set must be considered registrable per se and cannot violate any other provisions of the IPL, especially Art 124, Part XX, of the IPL.

Title, bonds, coins and bank notes

Item XIV of art. 124 of the LPI, in turn, provides that the following are not registrable as trademarks:

"Reproduction or imitations of titles, bonds, coins and bank notes of the Union, States, Federal District, Territories, Municipalities or of any country".

The prohibition is absolute for the figurative representation of a title, bonds, coins and bank notes of the above entities (regardless of goods or services to be distinguished), provided they are in current use, even though accompanied by other elements which are, per se, technically registrable.

Item XIV of art. 124 does not address title names, bonds, coins and bank notes. For trademarks required to designate goods or services that relate to those names, application of item VI of art. 124 of the LPI would be appropriate.

Examples:

	Unregistrable for containing graphical representation of the REAL currency.
	Registrable to designate "glasses". Unregistrable to designate "exchange services". Despite it contains the name of the currency subject to the claimed services, written in a common font.
	Registrable to designate any goods or services, given that the currency is not current, or is disused.

5.8.2 Symbol unregistrable due to its character being contrary to good morals and customs

As established in Part III of Art. 124 of the LPI, the following are not registrable as trademarks:

"(...) expression, figure, design or any other symbol contrary to good morals and customs or which offends the honor or image of people or infringes upon freedom of conscience, belief, religious cults or ideas and feelings worthy of respect and veneration".

Regarding the examination of the lawfulness of a symbol, taking into account the rules of morality and good customs, it is verified whether the expression, design or figure violates these rules. Such an assessment should take into account the market characteristics of the goods or services that the symbol aims to distinguish, as the type of target audience (general or specific), as well as the distribution, marketing and advertising channels for goods or services in question.

Regarding the offense to honor or individual image and the attack on freedom of conscience, belief, religious cults or ideas and feelings worthy of respect and veneration, verify:

- If the signal represents an individual offense to a personality right or image rights, protected in another rule of this article 124 of the LPI, when associated with goods and services that is intended to point out, without proper authorization;
- If the signal by the simple fact that it contains a reference to beliefs, religious cults or ideas and feelings worthy of respect and veneration, may disrespect religious images or refer disrespectfully to those feelings or ideas.

Thus, during examination, the following needs to be checked:

- a) If a word, phrase, drawing or figure alone, are, in themselves, offensive to morals and good customs, regardless of the goods or services to which they are attached;
- b) If a word, phrase, drawing or figure are prejudicial to this rule, given the connotation they take when applied to certain goods or services.

In the latter case, it is worth remembering that the names of saints and most widespread entities, as are the saints of the Catholic Pantheon and African-Brazilian cults, worshiped by a significant portion of the population, be assessed carefully. Denominations such as São Jorge or San Sebastian and Oxalá or Ogun can be registrable provided that the goods or services designated are not characterized as an offensive to the devotees of such entities.

Examples :

	Unregistrable for any goods or services.
KU KLUX KLAN	Unregistrable for any goods or services.
	Unregistrable for any goods or services for containing an obscene foreign word.
	Unregistrable for any goods or services for containing an obscene expression.
SAINT GEORGE	Unregistrable to designate condoms. Registrable to designate candles.
	Registrable to designate "trade of erotic goods" services, in view of the nature of the goods sold. It is worth noting that the services in question are aimed at an adult audience, having specific distribution channels and advertising.
	Unregistrable to designate children's toys.

5.9 Analysis of distinctiveness requirement of trademark symbol

Distinctiveness is one of the conditions for validity of a trademark. When the law refers to distinctive marks (Art. 122 of the LPI), it follows that such requirement relates to the specific function of the trademark, distinguishing the object indicated by it, so that it is possible to individualize it from others of the same genre, class or type.

When gauging the distinctive character of the symbol, all the factual circumstances are considered. Although the law does not

determine differentiation, for registration purposes, the degree of distinctiveness presented by certain rules for symbols, inherent in it, are intended to enable the assessment of whether or not this condition exists, in order to verify that the symbol conforms with the assumptions provided for in Parts II, VI, VII, VIII, XVIII and XXI of the art. 124 of the LPI.

Furthermore, the trademark registration application must refer to a single distinctive symbol, as provided for in Art 155 of the LPI. Therefore, if it is determined that the symbol is composed of variations of a trademark, the application will be rejected based on the aforementioned legal provision.

5.9.1 General guidelines for analysis of distinctiveness

The principle of distinctiveness is, par excellence, a key condition and function of the trademark for distinguishing the symbol of the goods and services. Its assessment takes into account the distinctive character of the set in question, inhibiting the appropriation on an exclusive basis of necessary generic symbols, because of common or poor usage of distinctiveness by virtue of its own constitution.

The prohibition of the registration of non-distinctive symbols is motivated, first and foremost, by the very inability of such elements to be perceived as a trademark by the consumer. In addition, the exclusive appropriation of a common use generic, necessary, common or descriptive symbol, generates unfair monopoly, since it would prevent other competitors from using terms or figurative elements necessary for their performance in the market.

In assessing the distinctiveness of a symbol, the impression generated by the trademark set is generally considered, in its phonetic, graphic and ideological dimensions, as well as the function performed by the various elements that comprise it and their degree of integration.

Concept of a Trademark Set

A trademark set is formed by a combination of verbal, figurative, or three-dimensional elements, subject to varying levels of integration, intended to identify goods or services, with varying degrees of distinctive effectiveness and capable of generating an

immediate impression on the target audience. The overall impression corresponds to the perception created by the combination of all its elements.

Elements of the Trademark Set

In a symbol formed by the combination of several verbal and/or figurative elements, its components can perform different functions, which vary according to their predominance within the set, taking into account the different spatial or semantic relationships existing between the elements that make up the set, regardless of whether they are unregistrable in isolation or not.

Main Elements

Terms, expressions, or images that play a dominant role in the trademark, being the primary focus of the target audience's attention and becoming fixed in their memory, are considered primary elements. These elements are commonly used by consumers to refer to the trademark in question, to the detriment of the other verbal and figurative components of the trademark.

The predominant nature of these elements can be determined by their size within the trademark, their relative position, and the use of resources that seek to emphasize them, such as typography, ornaments, frames, or distinctive colors, among others. Another important factor in defining the dominant nature of an element is the conceptual relationship it establishes with the other components of the trademark, as well as the scope of protection required.

Secondary Elements

Terms, expressions, or images that, due to their relative semantic or visual dimension, do not primarily resonate with the target audience, are considered secondary. These elements often play an ornamental role, highlighting the main components of the mark; They often also appear as merely informative or descriptive elements in relation to the scope of protection required. It is also common for secondary components to reaffirm the meaning already conveyed by the primary element, as they are merely redundant or expletive-like.

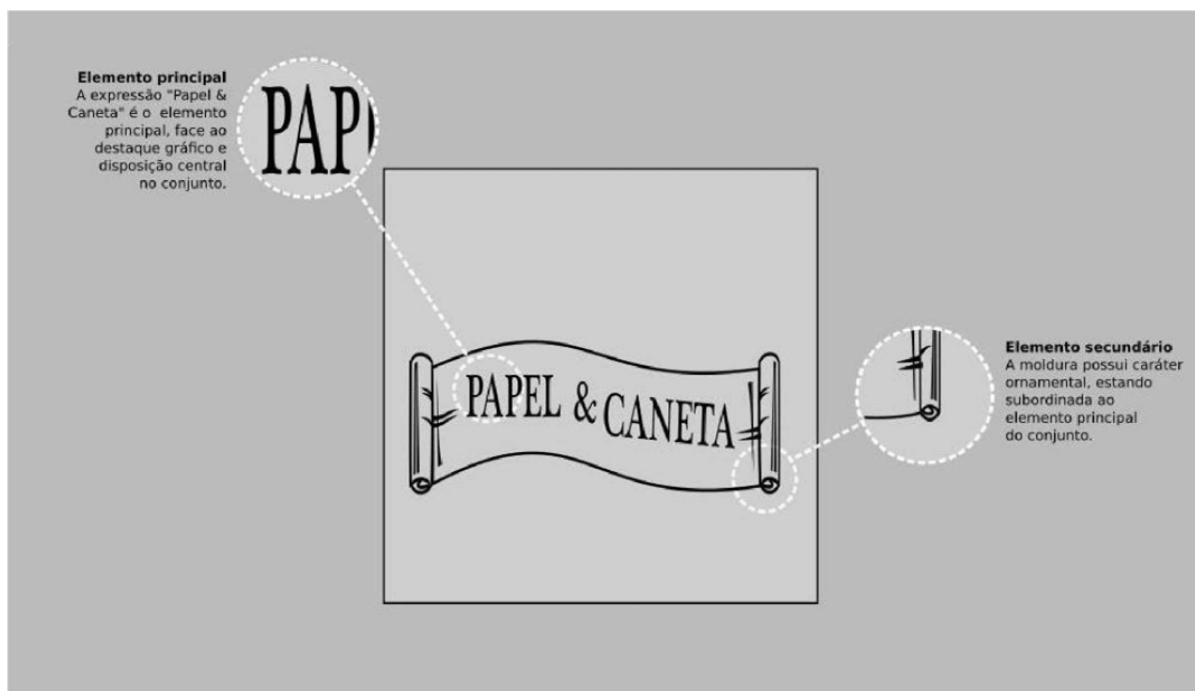
Negligible Elements

Negligible elements are figurative or verbal components clearly devoid of any distinctiveness, which orbit around the core formed

by the main or secondary elements, without being perceived as actual trademark components. In this sense, such elements are not recognized by the target audience in a real-life consumption situation. Examples of negligible elements are:

- a) Trademark symbols, such as ® and ™
- b) Addresses, telephone numbers, emails, and electronic addresses;
- c) Quantity, dosage, volume, weight, dimensions, measurements, and other product characteristics;
- d) List of ingredients, nutritional information, and allergen information;
- e) Indicative classification, usage information, and storage methods;
- f) Barcodes;
- g) ISSN (International Standard Serial Number), ISBN (International Standard Book Number), and DOI (Digital Object Identifier);
- h) CPF, RG, CNH, CNPJ, registration numbers with commercial boards, professional bodies and others.





Integration of Elements

The degree of integration between the different elements that make up the mark can directly affect the overall impression created by the symbol.

In the case of nominative elements, the combination of one or more words or radicals can create a set (expression or term) with its own concept or meaning, distinct from the individual words that comprise it. Conceptual integration of this nature may be able to preclude the application of prohibitions related to lack of distinctiveness.

In figurative or combined marks, the integration between the graphic components, in the first case, or between figurative and nominative elements, in the second case, can be so strong that this combination becomes the main source of distinctiveness of the whole.

Degrees of Distinctiveness

The distinctiveness of a symbol is linked to its greater or lesser inherent capacity to function as a mark. This is a scale, depending on the goods or services being marked, which ranges from a complete lack of distinctiveness to the highest degrees of distinctiveness. According to their degree of distinctiveness, symbols can be classified as:

Non-distinctive

This category includes symbols formed by terms, expressions, or images that identify the goods or services itself or that are used in the market to describe its characteristics. Non-distinctive symbols are also considered those that, by their very nature, are not capable of being perceived as a trademark by the target audience.

Suggestive/Evocative

Symbols formed by verbal or figurative elements that suggest or allude to characteristics of goods or services without, however, directly describing them. Although they have some conceptual proximity to descriptive elements, they have no immediate connection with the goods or services they intend to identify and are therefore eligible for registration. This category is detailed under the subtitle Evocative or Suggestive Symbols.

Arbitrary

A symbol whose meaning has no conceptual connection with the goods or services it intends to identify is considered arbitrary.

Fanciful

These are signs formed without any intrinsic meaning, that is, not taken from the vernacular.

The following table exemplifies the different degrees of distinctiveness of symbols, according to the relationship with the marked goods or services:

Goods or services	Non-registrable symbols	Recordable symbols		
	Non-distinctive	Evocative/Suggestive	Arbitrary	Fanciful
Shoe	Footwear Boot Treading Leather	Multishoes	Dakota	Osklen
Brandy	Drink Rum Bitter	Dona Pinga	Pitu	Sagatiba
Plane	Aircraft Teco-teco Supersonic	Airbus	Toucan	Elbit
Air transport	Transport Airline Lines airlines Italian	Fastjet	Goal	Zimex
Trumpet	Instruments wind trumpet Piston	Flat Sound	Jupiter	Weril

Evocative or Suggestive Symboles

Terms that evoke or suggest the purpose, nature, or other characteristics of goods or services, even if they have a low degree of distinctiveness, are eligible for registration, as provided in Normative Opinion INPI/PROC/CAJ No. 14/2005. Such words or expressions indirectly refer to the goods or services designated by the symbol, requiring some intellectual effort from the target audience to relate them.

Unlike descriptive elements, which immediately communicate to the consumer the nature or characteristics of the goods or services designated by the trademark, evocative or suggestive symbols do not denote the goods or services that the trademark intends to identify or its qualities. Such symbols seek, connotatively, to indicate the target audience, describe qualities, properties, or expected benefits, as well as, ultimately, establish an indirect relationship with the goods or services designated by the trademark.

The following characteristics are commonly present in evocative/suggestive signs or elements:

- a) the use of connotative language;
- b) the use of figures of speech, such as metaphor, personification, metonymy, etc.;
- c) the presence of words or expressions that share the same conceptual field and relate only indirectly to characteristics commonly associated with the trademark's object; or
- d) the combination of terms that, although not distinctive when isolated, result in an unusual expression, among others.

Examples

3G COLD SIP GUARANTEED	Registrable to identify non-electric refrigerated containers and ice boxes. The expression "GUARANTEED COLD SIP" indirectly refers to the potential benefit obtained from the refrigeration equipment that the symbol aims to designate.
DAMASCO	Registerable to designate restaurant service. As the name of the capital of Syria and one of the main metropolises of the Middle East, as well as a fruit widely used in Arab cuisine, the term "APRICOT" connotatively suggests the possible origin of the cuisine offered by the food service it aims to identify.
TOMATEX	Registrable to designate tomatoes. The term in question is considered evocative because it is a word derived from the name of the product that the symbol aims to designate ("TOMATO"), not used in the market segment in question.

PLASTICOLA	Registrable to designate plastic glue. The combination of the term "GLUE" and the adjective "PLÁSTICA" creates a new term that refers to the product the symbol is intended to designate, without constituting a term in current commercial use in the segment.
COLATEX	Registrable to identify fabric adhesives. The juxtaposition of the term "GLUE" and the suffix "TEX" (the root of the word "textile") forms a word that indirectly suggests the product and its purpose.
MR. CHOPP	Registrable to designate bar and restaurant services. The distinctiveness of the set derives from the personification effect generated by the combination of the descriptive term "CHOPP" with the abbreviation of the formal pronoun "MR.", creating a fanciful expression given the lack of such a nickname or designation.
AVESTRUZ & CIA	Registrable to distinguish the trade in poultry meat and eggs. Although considered inappropriate when used alone, the term "OSTRICH" and the expression "& CIA" form an unusual and sufficiently distinctive combination when combined, indirectly referring to the service designated.

5.9.2 Limit of protection granted

The protection conferred by trademark registrations is limited by the provisions of Art 124, parts II, VI, VIII, XVIII, and XXI, of Law No. 9,279 of 1996.

This protection limit is reproduced in all registration certificates for applications granted on or after February 23, 2016, to clarify the scope of the protection conferred by the trademark registration, as follows:

The protection conferred by this trademark registration is limited by the provisions of Art 124, parts II, VI, VIII, XVIII, and XXI, of Law No. 9,279 of May 14, 1996.

This reproduction does not alter the criteria for examining the registrability of trademarks established by this Manual.

Thus, if the degree of integration of these elements is such that they should not be separated or considered in isolation, it is understood that no claim is being made regarding the elements considered in isolation.

5.9.3 Symbol unregistrable due to its generic, necessary, common, ordinary or simply descriptive character

As established in Part VI of Art. 124 of the LPI, it is not eligible for registration as a trademark:

"(...) symbols of a generic, necessary, common, ordinary or simply descriptive type, when related to goods and services to be distinguished, or those commonly used to designate a characteristic of goods and services, as to the nature, nationality, weight, value, quality and time of production or of the service, except when of a sufficiently distinctive form".

The herein mentioned legal standard encompasses two situations: symbols that relate to goods or services that the trademark aims to distinguish or symbols commonly used to designate a characteristic of goods and services to be distinguished.

Symbol that is related to goods or services

To assess whether a symbol is generic, necessary, common, ordinary or simply descriptive, it is essential to consider whether the same holds an immediate and direct link with goods or services that it aims to distinguish. If the link is indirect and remote, the condition is not present and the prohibition does not apply, they could represent fanciful trademarks or evocative or suggestive trademarks, which are in principle technically registrable.

a) Symbol of generic character

A Term or nominative expression or its graphic representation (without having the necessary character in relation to goods or services or indicative nature, nationality, weight, value, quality and time of goods or services) designates the category, type or the genre that particular goods or services belongs to, and may not individualize it, under penalty of attempting to undermine the right of competitors.

Examples:

CLOTHING	Unregistrable to designate clothes.
FOOD	Unregistrable to designate food goods and food services
VEHICLE	Unregistrable to designate motorcycles, cars and bicycles.

b) Symbol of necessary character

Term or nominative expression or indispensable figurative element to designate or represent goods or services, or even their inputs.

Examples:

OLIVE OIL	Unregistrable to designate olive oils.
FAST FOOD	Unregistrable to designate a food service.

c) Symbol of common character

Term or nominative expression or figurative element which, though not matching the name or representation for which goods or services were originally identified, that through its current use, has been established for this purpose, thus integrating the commercial language.

Examples:

CAR	Unregistrable to designate cars.
PIÑA COLADA	Unregistrable to designate drinks.

d) Symbol of vulgar character

Slangs, popular or familiar names that also identifies goods or services.

Examples:

LITTLEWHITEONE	Unregistrable to designate spirits distilled from sugarcane (Cachaça).
CHICKEN	Unregistrable to designate food and food services.

e) Symbol simply descriptive

Term or nominative expression that does not lend itself to distinguish goods or services, but which aims to indicate its destination, or describe its application in its own constitution.

Examples:

TIMESET	Unregistrable to designate watches or clocks.
CLOTHESWASH	Unregistrable to designate washing machines.

Symbol commonly used to designate a characteristic of goods or services

To measure the impact of the ban, it is checked to see if the symbol actually designates a characteristic of goods and services, as to the nature, nationality, weight, value, quality and time of production of goods or provision of services.

The symbol is considered commonly used to designate the characteristics below, one which repeatedly used, results in its consecration of the ordinary language of trade to designate a characteristic of goods or services.

a) Nature: the producer or generating source of goods or services;

Examples:

ARTISINAL	Unregistrable to designate ice cream.
INDUSTRIALIZED	Unregistrable to designate tomato sauce.

b) Nationality: distinctive character of a nation or state, that which belongs to a nation;

Examples:

BRAZILIAN	Unregistrable for indicating any goods or services
ANGOLAN	Unregistrable for indicating any goods or services
PORTUGUESE	Unregistrable for indicating any goods or services

c) Weight: mass measurement, force or pressure scale of certain units as well as their respective designation when related to the product;

Examples:

GRAM	Unregistrable to designate fabric
KILO	Unregistrable to designate cereals. Registrable to designate shoes.
POUND	Unregistrable to designate tires. Registrable to designate Christmas trees.
HP	Unregistrable to designate motors. Registrable to designate goat cheese.

d) Value: merit, usefulness, validity, importance, of goods or services;

Examples:

AWARDED	Unregistrable to designate live animals.
FIVE STAR	Unregistrable to distinguish hospitality services.
SUPER LUXURY	Unregistrable to designate bed and table linen.

e) Quality: attribute or property, negative or positive things, superiority, excellence in anything, provided it is applicable to goods and services;

Examples:

TASTY	Registrable to designate screws. Unregistrable to distinguish breads.
ODORLESS	Registrable to designate desktop publishing. Unregistrable to distinguish mineral water.

f) Period of production or service provision: indication of the time when the goods were produced or the service was provided, or even to the year of production.

Examples:

SINCE	with an indication of any year or time	Unregistrable for any goods or services.
SINCE	with an indication of any year or time	Unregistrable for any goods or services.
HARVEST	with an indication of any year or time	Unregistrable to designate drinks.
FOUNDED IN 1820	Unregistrable for any service.	
1942 HARVEST	Unregistrable to designate drinks.	

The prohibition mentioned in this standard is not of absolute character. The symbol framed in this category should be covered in a sufficiently distinctive manner for registration to be valid, not conferring any right, exclusive title, regarding the name, expression or unregistrable figure.

Figurative and/or combined trademarks containing descriptive or figurative elements in common use

The figurative or faithful pictorial representation of a descriptive or common use element, such as non-distinctive photos or technical drawings of the product or its packaging, considered equivalent to its written representation and therefore unregistrable in light of item VI of art. 124 of the LPI. If they appear in combined or figurative sets, they will be dismissed if devoid of distinctiveness, or deferred, if accompanied by terms or figurative elements capable of providing set with a sufficiently distinctive nature.

Example:

Trademark	Specification	Notes.
	Fished	Unregistrable , since the set is formed by combining a descriptive term and photographic representation of the proposed product that is unregistrable in light of item VI of art. 124 of the LPI.

Trademarks that cause confusion over goods and services

There are trademarks that are confusing for many consumers, over the goods themselves or services that it designates. Such symbols do not fall within the scope of the provisions of item VI of art. 124 of the LPI, and the prohibition provided for in item XIX of art. 124 of the LPI shall apply if the impediment prior is pointed out in the search or in a third-party objection.

If such terms or expressions are contained in the product and services specification, they will be replaced in office by their true descriptions, conforming to the guidelines in Item 5.4.4. Specification containing equivalent terms to registered trademarks

5.9.4 Symbol that performs an advertising function

For the purposes of applying this legal standard, it is considered that the prohibition applies to signs that are incapable of being perceived as a trademark by the consumer public due to their exclusive role as a means of advertising.

As the trademark's intrinsic function is to identify and distinguish similar goods and services from others that are different in origin or not, it carries with it the function of a means of social communication. Therefore, the application of item VII of art. 124 of the LPI must be carefully applied, only when the exclusive advertising function of the symbol is evident.

Rejection by way of item VII of art. 124 of the LPI will occur only when the symbol as a whole meets two **cumulative** conditions:

- **Performing an advertising function; and**
- **Being incapable of performing a distinctive function.**

A symbol performs an advertising function when:

- It recommends the goods or services designated;
- It publicizes the qualities of the designated goods or services;
- It conveys the company's mission, values, ideas, or concepts;
- It aims to persuade the interlocutor with the intention of leading them to action; or
- It highlights the designated goods or services in relation to the competition.

If any of the above factors are verified, it is determined whether the advertising function is the only one capable of being performed by the symbol or whether it also possesses, in its origin,

sufficient distinctive capacity to act in the identification of the requested goods or services. This assessment will take into account the overall impression of the trademark as a whole, which corresponds to the perception created by the combination of all its elements.

A symbol that serves an advertising purpose will be considered devoid of distinctiveness and must be rejected under item VII when it corresponds to:

- An expression that has become **commonplace** in the advertising industry;
- An expression that is **exclusively descriptive**, comparative, promotional, or complimentary of the quality of the goods or services designated or the conditions under which they are offered; or
- An expression **lacking originality**.

To determine the originality of a symbol that serves an advertising purpose, searches will be conducted using internet search tools, as set forth in item 5.16 Searches and Other References, to determine whether the expression is already used in the industry by other competitors.

Examples of non-registrable symbols:

TAKE ADVANTAGE OF OUR OFFERS	Unregistrable to identify supermarket [food store] as it is an expression commonly used in the advertising sector.
 LIQUIDAÇÃO IMPERDÍVEL!	Unregistrable to designate the clothing trade. The symbol consists of an expression commonly used in the advertising sector and a figurative element that, by itself, cannot confer sufficient distinctiveness to the trademark as a whole.
BUY 3, PAY FOR 2	Unregistrable to designate the sale of cleaning materials as it is an expression commonly used in the advertising sector, in addition to being exclusively descriptive of the conditions of sale of the goods.
THE BEST SHOE IN BRAZIL	Unregistrable to identify shoes because it corresponds to an exclusively descriptive, comparative, and complimentary expression of the quality of the goods identified. Rejection due to items VI and VII of art. 124 of the LPI.
HERE EVERYTHING IS CHEAP EVERY DAY	Unregistrable to designate a pharmacy [pharmaceutical good trade]. This is a promotional expression used solely to describe the conditions under which the designated services will be offered.

SAFETY FIRST	Unregistrable for symboling fire alarms as it is an exclusively promotional expression and lacks originality.
TAKING CARE OF YOU	Unregistrable to designate health insurance as it is an exclusively promotional expression, lacking originality.
FUN GUARANTEED	Unregistrable to identify entertainment services as it is an exclusively promotional expression and lacks originality.

Combinations capable of acting simultaneously as a trademark and as an advertising medium do not fall under the legal impediment described in part VII. This situation applies to symbols consisting of:

a) A combination of distinctive elements with elements that perform only an advertising function.

Examples:

Melhoral, it's better and it doesn't hurt	Although the set contains an expression that exclusively serves an advertising function, it also contains the distinctive element, capable of conferring distinctiveness to the sign as a whole.
Bretas, always the best service	Although the set contains an expression that exclusively serves an advertising function, it also contains the distinctive element, capable of conferring distinctiveness to the sign as a whole.
Pan American. Everything put you.	Although the set contains an expression that exclusively serves an advertising function, it also contains the distinctive element, capable of conferring distinctiveness to the sign as a whole.
	Although the set contains an expression that exclusively serves an advertising function, it also contains the distinctive element, capable of conferring distinctiveness to the sign as a whole.

b) Combination of elements capable of simultaneously performing a distinctive and advertising function, bearing in mind that the use of certain devices (such as unexpected elements, wordplay, or terms that admit more than one interpretation) can contribute to increasing the distinctiveness of the symbol.

Examples:

YOU CAN DANCE	Registrable to identify entertainment services. Although the symbol is directed at consumers with the potential intent of prompting them to take action, its content is not limited to promoting or praising the services provided, and must be sufficiently abstract and original to be recognized as a trademark by consumers.

	Registrable to identify educational services. Although the term "erlocutor" is intended to lead to action, its meaning is broad enough to go beyond praising or promoting the services claimed, and can be recognized as a trademark by consumers.
OPEN TO HAPPINESS	Registrable to identify non-alcoholic beverages. Although the sign addresses the interlocutor directly, intending to prompt action, its elements admit multiple meanings and require some interpretive effort, resulting in a combination capable of acting as a trademark in the segment in question.
STARTING FROM ZERO	Registrable to identify investment advice, consultancy, and information. Although the expression conveys a positive idea about the service provided, its structure includes elements with more than one meaning, resulting in sufficient distinctiveness to act as a trademark.

5.9.5 Necessary, common or usual form of product or its packaging

In accordance with Part XXI of Art. 124 of the LPI, the following are not registrable as trademarks:

"necessary, common or usual form of product, its packaging or market preparation, or even one that cannot be disassociated from a technical effect."

This section deals with a three-dimensional symbol not registrable as a trademark, that is, one whose plastic form has no distinctive character in itself or so that it cannot be dissociated from technical effect, of the goods or services to which it applies. To deserve legal protection, the plastic form cannot be usual or common for the product or its packaging, or service to which it applies, nor can it be imposed by the nature of the goods or services or dictated by technical conditions.

Therefore, the three-dimensional symbol will only be eligible for registration as constituted by the particular nonfunctional and unusual product form or its packaging or service for which it is intended.

For the purpose of this legal standard, the following definitions shall be considered:

- **Plastic form:** the object in its three-dimensional format, as well as its configuration/physical form.
- **The necessary form of the product or packaging:** that of the actual nature of the object, without which it is impossible to produce it.
- **Common or ordinary shape of the product or packaging:** one that,

although not inherent to the product or its packaging at the time of filing is already commonly used by various manufacturers in their market segments.

- **Form that cannot be dissociated from technical effect:** that which is intrinsically related to a technical function, dictated by it, indispensable to the functioning of the object or assisting with its performance.

At the time of examination of the three-dimensional mark the following rules shall apply:

- a) If the claimed three-dimensional shape presents certain configurative characteristics capable of allowing their recognition or identification as goods or services, so that you can relate it to a producer or a particular service provider, distinguishing it from the others, of diverse origins, thus fulfilling its role in the market, that will identify goods or services;
- b) If the claimed three-dimensional shape covers the distinctiveness requirement for goods or services to which it applies;
- c) If the claimed three-dimensional form, is not a necessary, common or usual product, its packaging or market preparation to which it applies, or one that cannot be dissociated from the technical effect, relative to goods or services; and,
- d) If the claimed three-dimensional form does not affect other legal prohibitions (e.g. bottles in the form of monuments or that which offends morals).

It should be noted that the simple application of letters, numerals, numbers, words, figures, lines and colors to a common form does not give a three-dimensional trademark the required distinctiveness. Additional information on the examination of three-dimensional trademarks can be found in item 5.13.1 Three-dimensional trademarks.

5.9.6 Isolated letters, numerals or dates

In accordance with Part II of Art. 124 of the LPI, the following are not registrable as trademarks: "Isolated letters, numbers and dates, except when in a sufficiently distinctive form".

This section deals with the ban on registration as a trademark all

isolated letters of the alphabet in use in the national vernacular and the numerals 0 to 9.

For the purpose of this item, it is observed that the numbers and letters when written in full, are eligible for registration.

The date, interpreted in its complete form, falls under this ban, i.e. day, month and year, unless in a sufficiently distinctive form, however, although devoid of fanciful nature, being subject to the incomplete registration date.

This item establishes that letters, numbers and dates alone, being in their complete form, are of common use, and as such belong to the public domain and may not be appropriate on an exclusive basis. However, this caveat item is distinctive in nature, and these same cited elements, are registered when accompanied by other terms or covered by a sufficiently distinctive form, the registrability of the formed set being observed in relation to this distinctiveness and its availability.

If they are sufficiently distinctive, dates in their complete form, numbers and isolated figures will have their protection assessed by the graphic presentation of the brand, and elements cannot be part of distinct trademark sets in an identical, similar or related market segment.

Letters and isolated figures with a distinctive nature, must be deposited as figurative marks.

Examples:

Trademark	Specification	Notes.
	Legal services and arbitration	Registrable. Although the complete date "31 DECEMBER 1927" is inappropriate for use on an exclusive basis, it is accompanied by terms and graphics that give distinctiveness to the set.
11 OF AUGUST	Journals	Registrable, since the date is incomplete.
6	Watches, chronometers and parts thereof	Unregistrable in light of item II of art. 124 of the LPI, because it is an isolated figure.
SIX	Watches, chronometers and	Registrable, since it is a denomination of the numeral.

	parts thereof	
	Watches, chronometers and parts thereof	Registrable.
51	Alcoholic beverages (except beers)	Registrable , since it is number, and not an isolated numeral.
	Any goods or services	Registrable.
POST 1	Retail sales of gasoline and other fuels	Registrable. The combination of the word "POST" and the numeral "1" form a set eligible for registration even if the elements are considered unregistrable when isolated.
MODEL T	Watches, chronometers and parts thereof	Registrable. The combination of the word "MODEL" and the letter "T" in a joint form are capable of registration even if the elements are considered unregistrable when isolated.
LINE P	Clothes and clothing items	Unregistrable in light of item VI of art. 124 of the LPI, as "LINE P" is used to identify the size of the product that it is intended to highlight.

Considerations regarding the examination of registrability, as to the applicability of section XIX of art. 124 of the LPI

The following examples are intended to indicate the extent of protection granted by the registration of a trademark which contains a letter or numeral in its composition elements. We consider that the goods and services, indicated by the symbols, are similar.

Previous record	Application under examination	Procedure
LINE T		Unregistrable in light of item II of art. 124 of the LPI, because it's not covered in a sufficiently distinctive form.
LINE T		Registrable, since the holder of the previous registration does not have exclusive rights to the isolated letter "T".
LINE T	LINHA T	Unregistrable in light of item II of art. 124 of

		the LPI, because it's an imitation of an earlier third-party trademark.
LINE T	LINE K	Registrable. The combination of the word "LINE" and the letter "K" form a set capable of registration even if the elements are considered unregistrable when isolated.

5.9.7 Technical term

Item XVIII of art. 124 of the LPI prescribes that "a technical term used in industry, science and art, that is related to goods and services to be distinguished" is not registrable as a trademark.

By technical term, it is understood that the name itself is a special or particular name featuring specific art, profession or science, as well as its symbols and acronyms. It appears from reading this paragraph that, for its application, the technical term must maintain a relationship with goods and services, therefore the term is eligible for registration because it does not maintain a relationship with goods and services.

It is clear that the purpose of this standard is not to grant the particular producer or service provider, a commonly used term in the segment in which it operates. It is the same principle that governs item VI of art. 124 of the LPI, with the difference in scope that the term has in the market segment, i.e. if the term goes beyond a restricted circle of persons who have specific technical knowledge, it infringes the provisions of section VI of art. 124 of the LPI.

However, if the term is specific to a particular industrial, scientific or artistic segment, depending on specific knowledge not shared by a significant portion of the public, the same will infringe the legal standard of the item under discussion.

To understand this legal standard, the following will be observed:

- a) If the trademark is composed only by the technical term, not being accompanied by figurative or nominative elements that give distinctiveness to the set;
- b) If the technical term is accompanied by figurative or nominative elements capable of conferring distinctiveness to the set, the application will be accepted, the holder may not prevent third parties from using/registering the technical term in question,

in different trademark sets, in identical, similar or related market segments;

- c) If the trademark was composed only of the technical term in its registered form or in a non-distinctive combined presentation, the application for trademark registration shall be rejected.

Importantly, graphic and phonetic variations that de-characterize the technical term are subject to the application of the prohibition detailed in item XVIII of art. 124 of the LPI.

Examples:

FERRITE	Unregistrable to designate communication devices. Ferrite is a ceramic material with electromagnetic properties, used as the core of electrical transformers. It's commonly found in shortwave radios, where it functions as an antenna.
VELADURA	Unregistrable to distinguish artistic painting services. Staining is the application of a coat of transparent paint or oil over a pictorial layer, to soften the tone, adjust and unify the colors, used especially in oil painting.
MONTEVERDE VELADURA	Registrable , to distinguish artistic painting services. Although the term "VELADURA" is considered inappropriate exclusively, it is accompanied by a sufficiently distinctive word, forming a registrable set. Staining is the application of a coat of transparent paint or oil over a pictorial layer, to soften the tone, adjust and unify the colors, used especially in oil painting.

5.9.8 Colors and their denominations

As established in **Part VIII of Art. 124 of the LPI**, the following are not registrable as marks: "Colors and their denominations, except when arranged or combined in an unusual and distinctive manner".

There is therefore no doubt regarding the unregistrability of a trademark which consists of a color or its respective denomination. Likewise, the registration of augmented or diminutive variations thereof, is forbidden, even in cases of color denominations intrinsically with objects of any kind, such as color names corresponding to the names of fruits and/or legumes.

The registration, however, will be possible if there is a characteristic or peculiar combination of colors. Therefore, it is necessary to interpret this legal caveat in combination with the prescriptions of art. 122 of the LPI, i.e. the possibility of registration of any and all distinguishing symbols not defended by law.

Examples :

	Unregistrable for indicating any goods or services.
BLUE	Unregistrable for any goods or services, since it is an isolated color denomination.
GREEN-AND-PINK	Unregistrable to designate guavas, since, although they are not isolated, color designations refer to the inherent state of a product which a trademark is intended to highlight. Registrable to designate musical shows, since the symbol is composed of a combination of color denominations that is not related to the designated service.
LITTLE GREEN	Unregistrable for any goods or services, since it is an isolated color denomination in the diminutive form.
PUMPKIN	Unregistrable in the light of item VI of art. 124 of the LPI, if claimed to designate "Pumpkin", since it is the product itself. Unregistrable in the light of item VIII of art. 124 of the LPI for any goods or services (except "pumpkin"), since it is an isolated color denomination.

The set formed by the colors is to be distinctive for the mark to be considered registrable. In this sense, it is observed that trademarks composed of common names associated with colors, designating an associative color, are eligible for registration if the resulting expression is not related to the goods and services.

Therefore, sets formed by the combination of a color name and a non-registrable word/expression are considered sufficiently distinctive in light of part VI of art. 124 of the LPI, in which the resulting expression does not describe a characteristic of the goods or services that the symbol aims to indicate, despite the non-distinctive nature of the individual elements that compose it.

Examples :

MARROM REAL ESTATE CONSULTING	Registrable to designate "real estate business consultancy", since the color name "BROWN" is not found in isolation, is not usually used to designate a characteristic of the services designated or the expression "REAL ESTATE CONSULTING", in addition to forming a sufficiently unique and distinctive combination.
YELLOW SHIRT	Unregistrable in light of item VI of art. 124 of the LPI to designate "clothing", since it is an expression that identifies the product that the sign aims to designate and describes one of its potential characteristics ("color").
YELLOW PIZZERIA	Registrable to designate "FOOD SERVICES", since the color designation "YELLOW" is not found in isolation, is not

	usually used to designate a characteristic of the services claimed, in addition to forming a sufficiently unique and distinctive combination.

5.9.9 Specific cases in examination of distinctiveness

Some combinations of terms and elements, the frequency with which they are claimed as a trademark and their own constitution, entails specific treatment in examining their distinctiveness. The following are some specific guidelines for assessing the distinctiveness of some genres of symbols.

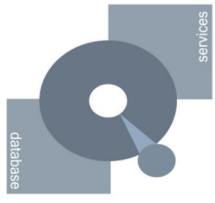
Combined trademarks, the nominative element of which is a Non-Distinctive Term or Expression

To be considered sufficiently distinctive, a combined trademark whose nominative element is a non-distinctive term or expression must be composed of figurative elements that are sufficiently fanciful or stylized and relevant to the required set, except in cases of absolute prohibition. Therefore, the distinctive character of such sets will depend on the ability of the figurative elements present in the sign to generate sufficient visual or conceptual impact to the point of standing out from the non-distinctive message contained in the terms or expressions.

To be considered distinctive, combined marks formed solely by non-distinctive terms or expressions must contain figurative elements capable of creating an immediate and lasting impression of the sign in the consumer's mind, diverting their attention from the non-distinctive nominative element.

Examples:

	
Unregistrable to designate "sweets", since the figurative element combined with the unregistrable term "CHOCOLATE" is not capable of diverting attention from the non-	Non-registrable to designate "database management", since the non-registrable nominative element is accompanied by ornamental figurative elements that are common in the market segment, which do not create an immediate and lasting impression

distinctive nominative element, in addition to being commonly used in the market segment in question.		capable of diverting the target audience's attention from the non-distinctive term.
		
Registrable to designate "sweets", since the figurative element performs the main distinctive function, generating an immediate and lasting impression and diverting the consumer's attention from the unregistrable terms "CACAU" and "COCOA".	Registrable to designate "sweets," since the stylized squirrel figure, besides being arbitrary, is the main focus of attention in the sign on the screen. Furthermore, the unregistrable expression "CHOCOLAT AU LAIT," repeated at constant intervals in the background of the image, is used as an ornamental pattern in the trademark.	Registrable to designate "database management", since the non-registrable nominative element is placed in a secondary position, with the figurative element being the main focus of attention, generating an immediate and lasting impression.

Figurative Elements incapable of Conferring Distinctiveness

Among the figurative elements that, in principle, are not capable of conferring distinctiveness to symbols composed of a nominative element formed by a non-distinctive term or expression, the following stand out:

a) Banal typography;

Examples:

		
Unregistrable to designate "leather clothing," given the use of an unregistrable nominative element, written in a common typography, and arranged in an equally common arrangement. Additional information on the distinctive character of the typography can be found in the subtitle "Typology, colors, and arrangement of nominative elements."		

b) Non-distinctive arrangement of figurative elements or simple or banal geometric shapes

Examples:

		
Unregistrable to designate "clothing", since these are descriptive nominative elements, written in banal typography and accompanied by a simple geometric shape.		

c) Common or non-distinctive frames or labels due to their simplicity or because they are commonly used in the market segment in question

Examples:

		
Unregistrable in light of item VI of art. 124 of the LPI to designate "fruit jellies", as it is a set formed by expressions that identify and qualify the indicated product, written in banal typologies and arranged on a non-distinctive label.	Unregistrable in light of part VI of art. 124 of the LPI to indicate "mixture of cereals for human consumption", as it is a set formed by a term that identifies the indicated product, written in a banal typography and arranged in a non-distinctive frame.	Unregistrable in light of part VI of art. 124 of the LPI to identify any products, as it is a set formed by an expression that describes a characteristic of the identified product, written in a banal typography and displayed on a common and non-distinctive label.

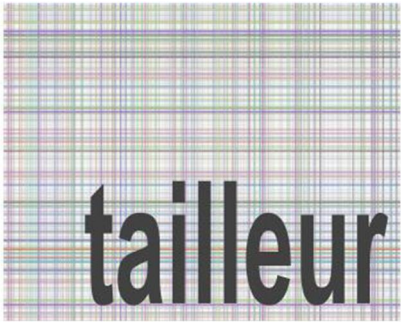
d) Images in common use in relation to the claimed goods and services

Examples:

	
Unregistrable in light of item VI of art. 124 of the LPI to designate "paper", as it is a set formed by a term that identifies the designated product, written in a banal typography, accompanied by the international recycling symbol, used in the segment in question to identify that the product was or may be subject to a recycling process.	Unregistrable in light of item VI of art. 124 of the LPI to designate "animal food", as it is a set formed by a term that identifies the animal species for which the goods are intended, written in a banal typography, accompanied by a stylized figure of a dog, of an equally banal nature.

e) Visual patterns that are difficult to memorize and decorative in nature

Examples:

	
Unregistrable in light of item VI of art. 124 of the LPI to designate "common use clothing", as they are sets formed by terms that identify the marked products, written in banal typography, on backgrounds made up of visual patterns of a decorative nature and difficult to memorize.	

f) Faithful or realistic figurative representation, even if stylized, of the goods or services

Examples:

	
Unregistrable in light of part VI of art. 124 of the LPI to designate "socks", as it is a set formed by a term that identifies the designated product, written in a banal typography, accompanied by a realistic figurative representation of the product.	Unregistrable in light of part VI of art. 124 of the LPI to designate "hand tools", as it is a set formed by a term that identifies the designated product, written in banal typography, accompanied by a realistic figurative representation of the product.

g) Two-dimensional or three-dimensional figurative representation of the packaging or containers.

Examples:

	Unregistrable to designate "wine", since the sign is composed of the combination of an unregistrable nominative element written in a common typography and a silhouette representation of the non-distinctive packaging of the product itself. Additional information on the distinctiveness of packaging representations is available under the subheading Graphic representation of packaging or packaging.

h) Non-distinctive representation of the physical space where the goods or services are marketed, consumed or provided

Examples:

	Unregistrable in light of items VI and XXI of art. 124 of the LPI to designate "fuel trade", since the symbol is composed of the combination of an unregistrable nominative element arranged to represent the physical space where the services are provided ("gas station").

Typology, colors and arrangement of nominative elements

To confer sufficient distinctiveness on a symbol formed by a non-distinctive term or expression, the typeface used must require some mental effort on the part of consumers to understand the meaning of the non-registrable nominative element. Thus, the use of common or easy-to-read typefaces, even handwritten ones, cannot confer

sufficient distinctiveness on a symbol formed by a non-distinctive term or expression. The same can be said of the mere claim to color applied to banal typologies.

The figurative arrangement of terms or expressions is considered capable of conferring sufficient distinctiveness only in cases where it requires mental effort on the part of a relevant part of the public to identify the relationship between the nominative elements and the claimed goods and services . Thus, the mere fact that non-distinctive terms or expressions are arranged vertically, inverted, or on different lines does not confer the distinctiveness required for registration.

Examples :

	Registrable . The distinctiveness of the trademark under examination resides in the conceptual effect generated by the integration of the nominative element with the stylized, imitative image of the product the sign aims to identify, obtained through the use of a non-trivial font. Despite the registrability of the trademark, it should be noted that the holder of such registration may not prevent third parties from using or registering the non-distinctive term in question as part of a distinct trademark in an identical, similar, or related market segment.
	Unregistrable . The set lacks distinctiveness, as it is formed by the unregistrable term "medicines," written in a banal, albeit colorful, typography. In this sense, it is understood that the stylized leaf on the far right of the word "phytotherapies" serves a merely ornamental, not distinctive, function.
	Registrable . The sign under review constitutes a sufficiently distinct set given the conceptual effect generated by the use of a non-trivial typography, integrating the nominative element with the stylized imitative figure of a two-wheeled vehicle, an image that evokes the product the sign aims to identify ("vehicle wheels"). Despite the registrability of the set, it should be noted that the holder of such registration may not prevent third parties from using or registering the non-distinctive term in question as part of a distinct trademark set in an identical, similar, or related market segment.

	Unregistrable in light of item VI of art. 124 of the LPI. The set lacks distinctiveness since it is formed by an expression of a necessary nature written in banal typography, on an equally banal background, albeit colored, whose function is merely ornamental and secondary.

Distinctiveness of figurative marks

When assessing the registrability of figurative presentation signs, the ability of the set to be perceived as a trademark by the target audience is considered, in compliance with the provisions of articles 122 and 124, items VI and XXI, of the LPI.

It is worth mentioning that, when analyzing the distinctiveness of figurative marks composed of an isolated letter or number, the guidelines contained in the subtitle Combined marks whose nominative element is a non-distinctive term or expression, of item 5.9.9 Specific cases in the examination of distinctiveness, will be observed, where applicable.

Non-distinctive geometric elements

Simple geometric elements, such as circles, lines, rectangles, squares, etc., are not capable of being perceived as a trademark by the consumer, not meeting the requirement set out in art. 122 of the LPI.

Examples:

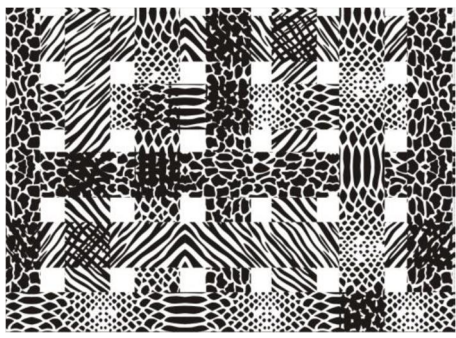
	
Unregistrable under Article 122 of the LPI. The set is formed solely by a simple geometric figure and is unaccompanied by additional elements capable of giving it sufficient distinctive character.	Registrable. The symbol consists of a combination of simple geometric elements, forming a fanciful and sufficiently distinctive set.

Evidently ornamental patterns

Clearly ornamental patterns, whether or not eligible for protection as industrial design registration, lack distinctiveness because they are merely ornamental or decorative elements that are intrinsically incapable of being identified as a trademark for any goods or services. Therefore, signs applied for as trademarks

consisting solely of a clearly ornamental pattern will be rejected under Article 122 of the Brazilian Industrial Property Law. However, the combination of ornamental patterns with other elements may confer sufficient distinctiveness to the sign.

Examples:

Mark	Observations
	Unregistrable under Article 122 of the LPI to identify any goods or services, as it is an evidently ornamental pattern incapable of being identified as a trademark.
	Registrable. The ornamental pattern, which cannot be registered in isolation, is integrated into a registrable element.

Symbols required as a trademark formed by an ornamental pattern applied to the representation of the product to be marked lack distinctive capacity and will be rejected under part VI of art. 124 of the LPI.

Example:

Mark	Observations
	Unregistrable in light of section VI, to designate "articles of clothing".

Graphical representations of goods

A faithful graphic representation of a descriptive or commonly used term, such as photographs, technical drawings, or simplified stylization of the product, is considered unregistrable under items VI or XXI of art. 124 of the LPI. However, fanciful stylizations

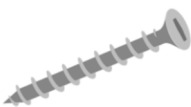
that distance the figurative element from the product to the point of requiring some effort of interpretation on the part of the relevant public are considered registrable.

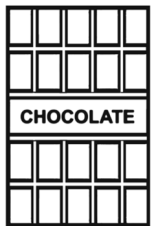
Symbols consisting of a two-dimensional figurative representation of the necessary, common, or vulgar shape of a product to which a distinctive nominative element has been applied will be subject to a requirement to remove the representation of the product. If, in compliance with the requirement, the applicant declares that he wishes to continue with the symbol as originally applied for, the symbol will be rejected under art. 122 and 124, part VI, of the LPI.

In the case of symbols consisting of a three-dimensional figurative representation of the necessary, common, or vulgar shape of a product accompanied by a distinctive nominative element, a requirement must be made for the suppression of the representation of the product. If, in complying with the requirement, the applicant declares that he wishes to continue with the symbol as originally applied for, the symbol will be rejected under art. 122 and 124, part XXI, of the LPI.

Trademarks formed solely by a two-dimensional figurative representation of the necessary, common or vulgar shape of a product accompanied by a non-distinctive nominative element will be rejected under articles 122 and 124, part VI of the LPI. Finally, trademarks formed solely by a three-dimensional figurative representation of the necessary, common or vulgar shape of a product accompanied by a non-distinctive nominative element will be rejected by part VI and XXI of art. 124 of the LPI.

Examples:

Mark	Specification	Observations
	Screws	Unregistrable under Article 124, item VI, of the LPI. The set is formed solely by the representation of the product that the symbol aims to identify ("screws") with a stylization that does not give it sufficient distinctive character.

	Cakes and pasta food	Registrable . The symbol consists of a fanciful stylization of the product that the sign aims to designate ("cakes and pasta").
	Wagons restaurant	A requirement will be made for the removal of the two-dimensional graphic representation of the common shape of the product to which the distinctive nominative element was applied. If the applicant declares that he wishes to continue with the sign originally applied for, the same will be rejected for violating the provisions of articles 122 and 124, item VI, of the LPI .
	Soaps	Unregistrable for violating the provisions of items VI and XXI of art. 124 of the LPI. The set is formed solely by the three-dimensional graphic representation of the common shape of the product accompanied by a non-distinctive nominative element.
	Chocolate	Unregistrable for violating the provisions of items VI and XXI of art. 124 of the LPI. The set is formed solely by the three-dimensional graphic representation of the common shape of the product accompanied by a non-distinctive nominative element.
	Chocolate	Unregistrable for violating the provisions of articles 122 and 124, item VI, of the LPI. The set is formed solely by the two-dimensional graphic representation of the common shape of the product accompanied by a non-distinctive nominative element.

The granting of trademarks consisting solely of a three-dimensional figurative representation of the necessary, common, or vulgar shape of a product in combined or figurative forms creates ambiguity regarding the limits of the right granted, as it does not clarify whether the protection extends to the three-dimensional configuration of the product or solely to the figure constituted by its two-dimensional representation. This imprecision in the protection granted can lead to abuses of rights, harming fair competition and creating legal uncertainty for other market participants.

Figurative representation of package or packaging

The figurative representation of packaging or common packaging of the product that the symbol aims to indicate, stylized or not, even if it contains a claim to colors, does not have sufficient distinctive capacity, incurring the prohibitions set out in parts VI and XXI of art. 124 of the LPI.

Three-dimensional representations

Figurative marks formed solely by an evidently three-dimensional representation of packaging (with perspective and indication of shading, for example), even if they contain the application of colors or ornamental patterns, are considered unregistrable in light of part XXI of art. 124 of the LPI, as they constitute a representation of the necessary, common or vulgar form of the packaging.

Example:

Mark	Specification	Observations
	Milk	Unregistrable in light of section XXI of art. 124 of the LPI.

Combined or figurative signs consisting of a three-dimensional graphic representation of packaging to which a distinctive verbal or figurative element has been applied will be subject to a requirement to remove the representation of the packaging. If, in compliance with this requirement, the applicant declares that it wishes to continue with the sign as originally applied for, the application will be rejected under articles 122 and 124, part XXI, of the LPI.

Example:

Mark	Specification	Observations
	Milk	Unregistrable in light of section XXI of art. 124 of the LPI.

Finally, trademarks formed solely by a realistic three-dimensional reproduction of packaging accompanied by a non-distinctive

nominative element will be rejected by parts VI and XXI of art. 124 of the LPI.

Example :

Mark	Specification	Observations
	Milk	Unregistrable for violating the provisions of items VI and XXI of art. 124 of the LPI.

The eventual granting of such sets of trademarks in combined or figurative forms creates ambiguity regarding the limits of the right granted, as it does not clarify whether the protection extends to the three-dimensional configuration of the packaging or solely to the figure constituted by its two-dimensional representation. This imprecision in the protection granted can lead to abuses of rights, harming fair competition and creating legal uncertainty for other market participants.

Two-dimensional representations

Figurative marks consisting solely of a common two-dimensional stylization of packaging, even if they contain the application of colors or ornamental patterns, are considered unregistrable in view of the provisions of part VI of art. 124 of the LPI, as they are symbols of a common nature.

Example :

Mark	Specification	Observations
	Fruit juice	Unregistrable in light of section VI of art. 124 of the LPI.

Symbols consisting of a two-dimensional representation of packaging to which a distinctive verbal or figurative element has been applied will be subject to a requirement to remove the representation of the packaging. If, in compliance with the requirement, the applicant declares that it wishes to continue with the sign as originally

applied for, the application will be rejected under articles 122 and 124, part VI, of the LPI.

Example:

Mark	Specification	Observations
	Fruit juice	A requirement will be made for the removal of the representation of the packaging. If the applicant declares that he wishes to proceed with the originally requested sign, the same will be rejected for violating the provisions of articles 122 and 124, item VI, of the LPI.

Trademarks formed solely by common two-dimensional reproduction of packaging accompanied by an element non-distinctive nominative will be rejected by articles 122 and 124, part VI, of the LPI.

Example:

Mark	Specification	Observations
	Fruit juice	Unregistrable for violating the provisions of arts. 122 and 124, section VI, of the LPI.

Representation of maps, globes and planispheres

Traditional representations of maps, globes and planispheres are considered inappropriate for exclusive use because they lack distinctive character, in any market segments, under the terms of part VI of art.124 of the LPI. However, the fanciful stylization of these elements or their combination with other elements are conditions capable of conferring sufficient distinctiveness to the symbol, allowing it to be granted as a trademark.

Example:

Mark	Observations
	Registrable. The representation of the map, which cannot be registered in isolation, is integrated into a registrable element.

Marks formed by agglutination or juxtaposition

Elements clumped in common use

Clumping is the combining two or more distinct terms into one word, in which a letter and/or phoneme is lost. Ordinarily, such a phenomenon phonetically alters the correctly spelled unregistrable expression, forming a new term eligible for registration in the light of section VI of art. 124 of the LPI.

Examples:

Trademark	Specification	Notes
GOSTOSOVO	Eggs for nourishment	Registrable.
BOMEL	Honey	Registrable.

The exception to this rule is a trademark formed from clumping, devoid of distinctive terms, in which the first term ends in an unstressed vowel and the second element begins with the identical and equally unstressed vowel. In such cases, it is understood that despite the assemblage of elements, the resulting term is phonetically identical to correctly spelled words, and does not therefore have a sufficiently distinctive character.

Example:

Trademark	Specification	Notes
PURAVEIA	Cereals	Unregistrable in light of item VI of art. 124 of the LPI. Although the clumping of the element "PURAVEIA" is phonetically similar to the term "PURE OATS", it's considered unregistrable to designate "cereals" as it identifies the type of product which the symbol is intended to highlight. The phonetic identity with the correctly spelled word occurs because the vowel "A", present at the end of the word "PURE" and the beginning of the word "OAT" is unstressed.

Juxtaposed Non-Distinctive Terms

Juxtaposition is the combination of two or more words or roots into a single term, without any spelling or phonetic changes to these elements. The juxtaposition of non-distinctive terms typically does not create a registerable set because it is indistinguishable from a correctly spelled, non-registrable expression.

Examples :

Trademark	Specification	Apostille
BOMCAFÉ	Coffee	Word: None. Rejected on the basis of part VI of art. 124 of the LPI. Combined: The distinctiveness of the claimed combined set and the function of the nominative element must be assessed in order to determine their registrability, following guidelines laid out in item 5.9.9 Specific cases in examination of distinctiveness.
BIGSACO	Sacks	Word: None. Rejected on the basis of part VI of art. 124 of the LPI Combined: The distinctiveness of the claimed combined set and the function of the nominative element must be assessed in order to determine their registrability, following guidelines laid out in item 5.9.9 Specific cases in examination of distinctiveness.
CAMISANOVA	Clothing	Word: None. Rejected on the basis of part VI of art. 124 of the LPI Combined: The distinctiveness of the claimed combined set and the function of the nominative element must be assessed in order to determine their registrability, following guidelines laid out in item 5.9.9 Specific cases in examination of distinctiveness.
PURASOPA	Soups	Word: None. Rejected on the basis of part VI of art. 124 of the LPI Combined: The distinctiveness of the claimed combined set and the function of the nominative element must be assessed in order to determine their registrability, following guidelines laid out in item 5.9.9 Specific cases in examination of distinctiveness.

Clumping and juxtaposition of commonly used terms with fantasy elements

The presence of the fantasy element gives the set sufficient distinctiveness, making it eligible for registration.

Examples :

Trademark	Specification	Notes
MOBILÓTICA	Optical instruments	Registrable.
COMAVES	Meat, poultry and eggs	Registrable.

	Meat, poultry and eggs	Registrable. Although the highlighted term "POULTRY" is considered an inappropriate exclusive title to designate the goods claimed, it is accompanied by additional elements that give the whole a sufficient distinctiveness, making it eligible for registration.
FRANCÓLEOS	Lubricating oil for vehicles	Registrable.
MILKWAY	Dairy products	Registrable.
DELICHEESE	Cheeses	Registrable.
PNEUAC	Trade of automobile parts and accessories	Registrable.

Clumping or juxtaposition of commonly used terms with evocative roots, forming a new term

In this case, the process of agglutination or juxtaposition is potentially capable of conferring sufficient distinctiveness to the whole, making it eligible for registration, provided that the word or expression generated is not used in the market segment to identify the goods/services that the sign is intended to identify, or even one of its characteristics or properties.

Examples:

Trademark	Specification	Notes
MICROTEC	Software development	Registrable.
DATAPRONT	Data processing	Registrable.
MECAUTO	Automobile maintenance	Registrable.

Clumping or juxtaposition of evocative radicals forming a new term

Evolutionary radicals are those that refer to the goods or services marked by the trademark, but have no meaning when isolated. They are considered elements of composition and are usually made up of prefixes and suffixes, and may be part of several distinct trademark sets.

Examples:

Trademark	Specification	Notes
AGROFERT	Fertilizers	Registrable.
ORTOMED	Medical equipment	Registrable.
AGROMAQ	Agricultural machinery	Registrable.
CONSULTPLAN	Business consulting services	Registrable.

Clumping or juxtaposition of invocative terms with terms that suggest quantity or quality forming a new term

Examples:

Trademark	Specification	Notes
ULTRACHOC	Chocolates	Registrable.
HIPERPHARMA	Medicine sales	Registrable.
MULTFLEX	Tubes and metal pipes	Registrable.

Combination of non-distinctive terms forming a sufficiently distinctive set

Terms that, in isolation, do not have distinctiveness to identify the claimed goods or services may be combined to form sets that are eligible for registration in view of the distinctive character of the resulting combination.

Examples:

Trademark	Specification	Notes
POST L	Fuels and lubricants for automobiles	Registrable. Although the term "POSTO" is non-registrable to identify the claimed goods because it identifies the type of establishment that sells them, and the letter "L" cannot be appropriated exclusively by virtue of the provisions of part II of art. 124 of the LPI, the combination of such elements forms a set capable of identifying the business origin, given its unique and unusual nature. In this sense, it is considered that the expression as claimed is not commonly used to identify a characteristic, property, or purpose of the goods in question.
YELLOW HEALTH SERVICES	Health services	Registrable. Although the color designation "YELLOW" is not registrable in isolation, in view of the provisions of art.124, Part VIII, of the LPI, and the expression "HEALTH SERVICES" constitutes a mere description of the services claimed, the combination of such elements forms a sufficiently distinctive whole. In this sense, it is worth noting that the color designation "YELLOW" is not usually used to designate a characteristic of the expression "HEALTH SERVICES."

Combination of non-registrable expressions and terms such as "& Cia", "& Co" and "Companhia"

As set out in Opinion PROC/DIRAD/No. 15/2009, trademarks composed of a combination of non-registrable expressions and terms such as "& Cia", "& Co" and "Companhia" are, in principle, registrable with regard to part VI of art. 124 of the LPI.

Examples:

Mark	Specification	Notes
OSTRICH & CO.	Meat, poultry and eggs	Registrable. The combination of the term "OSTRICH" and the expression "& CO" forms a set that can be registered, even though the elements are considered non-registrable when isolated.
HAIR COMPANY	Perfumery, toiletry and cosmetic products	Registrable. The combination of the terms "COMPANY" and the expression "DO CABELO" forms a set that can be registered, even though the elements are considered unregistrable when isolated.
FEET COMPANY	Footwear	Registrable. The combination of the acronym "CIA" and the expression "DOS PÉS" forms a registrable set, even though the elements are considered unregistrable when isolated.
PAPERS, TAPES & CO.	Stationery	Registrable. The combination of the terms "PAPERS", "TAPES" and the expression "& CIA" forms a registrable set, even though the elements are considered non-registrable when isolated.

It should also be noted that trademarks composed of the combination of non-registrable expressions with the the word "Brazil" are registrable, when they do not give rise to an unequivocal relationship between the required set and the nationality, provenance or origin of the goods or services that the trademark aims to identify.

In these cases, the term "Brazil" ceases to function as a nationality identifier and starts to function as a distinctive part of a set subject to registration, in relation to item VI of art. 124 of the LPI.

Examples:

Mark	Specification	Notes
Brazilian Churros	Churros trade	Registrable. Although unregistrable when isolated, when to be combined, the terms "CHURROS" and "BRASIL" form a sufficiently distinctive and amenable expression of registration. It is worth noting that, in the signal in question, the term "BRAZIL" does not establish an unequivocal relationship of nationality.

	Churros trade	Registrable. Although non-registrable when isolated, when be combined, the terms "BRAZIL" and "MINING" forms a sufficiently expressive expression distinctive and registrable. It is worth noting that, in symbol in question, the term "BRAZIL" does not establish unequivocal relationship of nationality.
BRAZILIAN STEELS	Wholesale trade of steel and metallurgical products	Unregistrable. The expression identifies the product and its national origin, and is therefore unappropriable in isolation in light of part VI of art. 124 of the LPI.

Neologisms

Trademarks formed from suffixes commonly used in the formation of words that identify the type of establishment

The combination of terms or expressions that identify the goods or services to be marked with nominal suffixes normally used in the formation of words that identify the type of commercial establishment, business sector or professional category, such as the suffixes "-ERIA", "-ARIA", "-EIRO" and "-EIRA", is not capable of constituting a set with sufficient distinctive character, even if the resulting term is not found in the dictionary.

In this sense, even if they constitute neologisms, words constructed from such suffixes can be easily perceived by the consumer as a mere indication of the type of establishment or professional that sells, manufactures, or provides the goods or services designated. Therefore, when not sufficiently distinctive, such sets incur the prohibition set forth in part VI of art. 124 of the LPI.

Example:

Mark	Specification	Notes
SAUSAGE SHOP	Trade in savory and sweet foods	Unregistrable in light of part VI of art. 124 of the LPI. The combination of the suffix "ERIA" with the name of the product itself ("SALGADO") generates a word identified as a mere name of a type of establishment, therefore devoid of distinctive capacity.

Combination of commonly used elements in the formation of fantasy expressions

Non-distinctive element in an expression with its own meaning

In the case of signs formed by expressions that contain a term considered unregistrable, the meaning of the set in question will be assessed in order to determine its distinctiveness.

Example:

Mark	Specification	Notes
HONEYMOON	Honey	Registrable. Although "MEL" is not registrable for the product in question, the expression has its own meaning.
TAILS OF TALK	Business of used books	Registrable. Although "SEBO" is not registrable for the service in question, the expression has its own meaning.
PAPER WEDDING	Paper and cardboard	Registrable. Even though the products in question are made of paper, the expression has its own meaning.
MILKY WAY	Dairy products	Registrable. Even though the products in question are made from milk, the expression has its own meaning.
KNOTLESS STITCH	Tailor services	Registrable. Although the expression is used in the designated market segment, it has its own meaning.
AT LEAST	Waxing services	Registrable, even if the expression implies the purpose of the service.
AT THE POINT OF BULLET	Sweets trade	Registrable. Even though the term "BALA" describes the products sold, the expression has its own meaning.
SO & SO	Restaurant, bar and snack bar	Registrable, even though "ASSADO" may designate one of the dishes offered in the commercial establishment that the trademark aims to designate.

Combination of commonly used expressions and fantasy elements

The examination of distinctiveness will observe the distinctive character of the set, suitable for the registration of signs that contain non-distinctive terms, expressions or images, when combined together or with other elements they give distinctiveness to the set. It should be noted that the presence of non-distinctive element of a trademark does not entitle the proprietor to prevent third parties from using or register the element does not distinctive in question as part of distinct trademark set in the same, similar or related market segment.

Examples :

Mark	Specification	Notes
BISCOITO PALHAÇO	Biscuits	Registrable. Despite the presence of unregistrable term "CRACKER", combining it with the distinctive element "CLOWN" gives the set a sufficiently distinctive nature.
CLÍNICA DE OLHOS SEROPÉDICA	Medical services	Registrable. Despite the presence of unregistrable expression "EYE CLINIC", combining it with the distinctive element "SEROPÉDICA" gives a sufficiently distinctive nature to the set.
BANCO BRADESCO	Banking services	Registrable. Despite the presence of the unregistrable term "BANK", its combination with the distinctive element "BRADESCO" gives a sufficiently distinctive nature to the set.
CIDADE DO AUTOMÓVEL	Buying and selling new and used vehicles	Registrable. Despite the presence of the unregistrable term "AUTO", the distinctiveness of the symbol is derived from the fanciful nature of the expression as a whole, in view of the absence of such a place.
HOSPÍCIO DO CHOPP	Bar and restaurant	Registrable. Despite the presence of the unregistrable term "CHOPP" the distinctiveness of the symbol is derived from the fanciful nature of the expression as a whole, in view of the absence of an institution of such genre.
MR. PASTEL	Food services	Registrable. Despite the presence of the unregistrable term "PASTEL" the distinctiveness of the sign is derived from the fanciful nature of the expression as a whole, in view of the absence of such a nickname or name.
REI DOS FOGÕES	Installation and repair of heating equipment	Registrable. Despite the presence of the unregistrable term "STOVES" the distinctiveness of the sign is derived from the fanciful nature of the expression as a whole, in view of the absence of such a title.

Spelling changes of non-distinctive terms or expressions**Symbols, the phonetic of which refers to goods and services**

When examining the symbol, the spelling of which is phonetically equivalent to the non-distinctive term, it is assessed as to whether the meanings of the expressions are directly identified, requiring no mental effort to form an association between them. In these cases, the symbols are directly equivalent to the correctly spelled terms, and their registration is prohibited on an exclusive basis. On the other hand, the symbols whose spellings have no direct correspondence with descriptive, generic expressions of common,

vulgar use etc., i.e. those whose spellings that can hide such expressions, are considered eligible for registration.

As a general rule, to confer a sufficiently distinctive impact to the set, the substitution or omission of letters in unregistrable terms or expressions should:

- Be surprising, individual or arbitrary; or
- Require relative mental and interpretive effort to identify the term or correctly spelled words.

Examples:

Trademark	Specification	Notes
CAMYSA	Clothes	Nominative: None. Rejected on the basis of item VI of art. 124. Combined: The distinctiveness of the claimed combined set and the function of the nominative element must be assessed in order to determine their registrability, following guidelines laid out in item 5.9.9 Specific cases in examination of distinctiveness.
K-MYZZA	Clothes	None. This is not a case for applying item VI of art. 124, since the identification of the expression in its correct spelling is not direct and would require in firstly, the effort of mental association.
KARRPETH	Carpets	None. This is not a case for applying item VI of art. 124, since the identification of the expression in its correct spelling is not direct and would require in firstly, the effort of mental association.
KARRO	Automobiles	Nominative: None. Rejected on the basis of item VI of art. 124; Combined: The distinctiveness of the claimed combined set and the function of the nominative element must be assessed in order to determine their registrability, following guidelines laid out in item 5.9.9 Specific cases in examination of distinctiveness.

Acronyms and abbreviations

Abbreviations and acronyms words or phrases devoid of distinctiveness are considered unregistrable if they are commonly used by the relevant public (consumers and suppliers) as equivalent to words or expressions referred to. The use of such acronyms or abbreviations for various suppliers and/or their mention in books or academic and technical articles can characterize their unregistrability.

Examples :

Trademark	Specification	Decision
TVF FRESH RED TOMATOES	Unprocessed tomatoes business	Registrable. Although the "RED TOMATOES" expression is considered inappropriate on an exclusive basis, it is accompanied by a sufficiently distinctive nominative element, forming a set that is eligible for registration. It should be noted that the holder of such a registration may not prevent third parties from using or registering the non-distinctive term in question as part of distinct trademark set in the same, similar or related market segment.
HTTP	Software development services and creation of Internet pages	Unregistrable in light of section XVIII of art. 124 of the LPI, since "HTTP" is an acronym of the technical term "HYPERTEXT TRANSFER PROTOCOL" communications protocol used in the exchange and transfer of data on the Web and is commonly used by professionals in the software development industry and Internet applications.

Domain Names

The acronym "www" and the top-level domains (.com, .gov, .org, .com and .uk) are unregistrable for any goods or services. You can check the list of top-level international and Brazilian domains on the websites of the Internet Assigned Numbers Authority - IANA and the point BR Information and Coordination Center - NIC.br.

Examples

Trademark	Specification	Notes
PONTOFRIO.COM	Appliances, furniture and houseware store	Registrable. The combination of the fanciful expression "PONTOFRIO" with a top-level domain ".COM" forms a sufficiently distinct set.
	Fitness equipment	Registrable. The combination of the fanciful expression "SURRA" with top-level domain ".com" forms a sufficiently distinct set.
WWW.INTERNET.COM	Telecommunication services	Unregistrable in light of item VI of art. 124 of the LPI.
WWW.BISCOITO.COM.BR	Biscuits, cookies, cakes and pasta business	Unregistrable in light of item VI of art. 124 of the LPI.

5.10 Analysis of truthfulness requirement of trademark symbol

The principle of truthfulness of the trademark symbol is expressed in item X of art. 124 of the LPI, which prohibits misleading trademark registration, as to the origin, source, nature, purpose or use of the goods or services it is intended to highlight.

5.10.1 Symbol unregistrable due to its misleading nature

In accordance with Part X of Art. 124 of the LPI, the following are not registrable as trademarks:

"(...) Symbol that induces a false indication as to the source, origin, nature, quality or use of goods and services to which the mark is intended".

This rule contains the principle of veracity of the trademark, prohibiting the registration of deceptive characters, understood to be any symbol, whether in nominative, figurative or combined form, which induces the to error as to the source, origin, nature, quality or use of goods and services that is intended.

The prohibition mentioned in this item IS NOT of a distinctive nature, given its public nature.

Symbol consisting of a false indication as to the origin or source

It is worth noting that this legal provision does not refer to geographical indications, as these are specifically addressed in section IX of art. 124 of the LPI. However, this rule applies to cases of reproduction or imitation of geographical indication not registered in Brazil.

During the examination, it will be checked as to whether the symbol is likely to induce the consumer to purchase goods or hire services in the mistaken belief that it comes from a specific origin or source that is not true, due to the knowledge they acquired in the market segment in which they operate.

Under that provision, it is prohibited to register the trademark symbol national designation or known nationality of goods or services that aims to distinguish where oods or services are from, when the goods in question actually does not come from that place.

Examples:

Trademark	Specification	Notes
FRENCH WINE	Alcoholic beverages, except beers	Unregistrable if applied for by a Brazilian since it induces a false source/origin, because France is a country known for producing wines.

SWISS MILITARY	Watch	Unregistrable if applied for by a North American, since it induces a false source/origin, because Switzerland is a country known for producing watches.
PURE OLIVE OIL SPANISH OLIVE OIL	Olive oil	Unregistrable if applied for by an Italian since it induces a false source/origin, because Spain is a country known for producing olive oil.

Trademarks Consisting of the Acronym "DOC"

The acronym "DOC," derived from the expression "Denominazione di Origine Controllata" (or "Denominazione di Origine Controllata" in Italian), is commonly used in several countries to identify geographical indications, appearing after the name of the producing location or region. In the case of trademarks containing the acronym "DOC" associated with terms or expressions not registered as a geographical indication, the following must be considered:

- a) Whether the application intends to identify goods or services normally protected by a geographical indication; and
- b) Whether the "DOC" element serves as an indication of origin/designation of origin, leading the consumer to believe that the product originated from the region or location covered by the geographical indication.

If the sign meets both conditions, it will be rejected under part X of art. 124 of the LPI, for misleading the consumer about the origin or quality of the product. In cases where the "DOC" element is accompanied by an existing geographical indication name, the symbol will be analyzed in light of the procedures established for the application of part IX of art.124 of the LPI.

Government programs

The legal standard provided for in item X of art. 124 of the LPI further prevents governmental and similar program names from being appropriated by third parties. In this sense, it is understood that the use of such third-party names in trademarks induces the consumer to err as to the origin of the designated goods and services.

Example:

Trademark	Specification	Notes
LIGHT FOR ALL	Basic electric elements and lighting	Unregistrable, unless requested by the Federal Government, since "LIGHT FOR ALL" is the name of the National Program for Universal Access and Use

		of Electricity, created by Decree NO. 4,873 of 11/11/03, and coordinated by the Ministry Mines and Energy. Its use by third parties to designate lighting equipment is characterized as a false indication as to the origin of the goods claimed.

Symbol consisting of a false indication as to the nature, quality or use

Examination of false indication of the nature, quality or usefulness is limited to checking the existence of the indication of a characteristic that goods and services does not possess, provided that such indication is capable of misleading the consumer. Therefore, the prohibition set forth in part X of art.124 of the LPI does not apply in cases where the characteristic attributed to goods and services is unrealistic and absurd, so as to eliminate the misleading nature referred to in the aforementioned legal provision.

Examples:

Mark	Specification	Notes
CURAGRIPE	Medicines	Unrecordable , since there is no medicine that can cure the flu.
REFRIGERATOR	Sugarcane brandy	Unregistrable , since alcoholic beverages do not fall into the soft drinks category.
CURVELO SHIRTS	Shirts, t-shirts, coats, pants, shoes, belts, socks and hats	Registrable , since the sign is intended to designate "shirts," among other clothing items, and the presence of such a term in the set, in principle, will not be able to mislead the consumer. It is worth noting that, in the event of expiration, it will be up to the owner to prove use of the mark for the claimed goods, under penalty of partial expiration of the registration in relation to goods that are not similar or related to those for which the sign was actually used.
	Alcoholic beverages, except beer	Recordable , in view of the unreal and unlikely nature of the adjective "MIRACLE" in the set in question.
IN NATURE	Tomato sauce	Unregistrable , since an industrialized product cannot be in natura.

UNBREAKABLE	Dishes	Unregisterable , since there is no completely unbreakable crockery.
NO FRYING	French fries	Unregisterable , as there are no French fries without frying.

However, if the quality indication, by hypothesis, is true, it should be of sufficient distinctiveness so that the symbol does not relate to the prohibition imposed by art. 124, part VI of the LPI.

Trademarks containing the terms "certification", "certificate", "certifier" and their variations

The presence of the terms "certification", "certificate", "certifier" and their variations in the nominative element of marks of a different nature to that of a certification mark may mislead the target audience, thus constituting a violation of the provisions of item X of art. 124 of the LPI, except in cases where such words appear in contexts not related to the certification itself.

In cases where the presence of the aforementioned elements, accompanied by other distinctive elements, is likely to mislead the consumer, the applicant will be required to declare his/her wish to continue with the registration application with the exclusion of the words in question from the set requested as a trademark.

However, the formulation of such a requirement will be conditional on the subsisting part of the trademark not altering the main characteristics of the sign originally applied for. Furthermore, the subsisting whole must be considered registrable and may not violate any other provisions of the LPI, especially Article 124, item XX, of the LPI.

5.11 Analysis of availability requirement of trademark symbol

The condition of availability is essential for trademark rights to be granted. The symbol must be free to be appropriated as a trademark and such legal availability is not limited to the finding of the previous record: the symbol may not encounter any obstacle in another distinguishing symbol protected in any way, and not only those supported by Law No. 9,279/1996.

The protection of the symbol availability requirement is provided for in arts. 124, parts IV, V, IX, XII, XIII, XV, XVI, XVII, XIX, XX, XXII and XXIII, 125 and 126 of the LPI.

As provided in art.49 of INPI Ordinance No. 8/2022, any prior right whose holders are not identical to the applicants for the application under review will be considered a third-party right, even if some of the applicants hold the right in question.

Therefore, trademark registration applications will be denied based on art.124, part XIX, or articles 125 and 126 of the LPI if the applicants for the application are not exactly the same as those for the registration of the reproduced trademark.

When the registrability of a symbol depends on authorization or consent, as defined in Parts XIII, XV, XVI, and XVII, authorization must be submitted expressly permitting registration of the symbol by all applicants for the application in question.

5.11.1 Analysis of conflict between symbols

The analysis of the possibility of a clash between the symbols in conflict includes the evaluation of its graphic, phonetic and ideological aspects in order to verify that the similarities generate risk of confusion or undue association. Therefore, this step is essential for examining the availability requirement, along with an analysis of marketing affinity, as discussed in Section 5.11.2 Examination of Marketing affinity.

As a general rule, the analysis of conflict between symbols is based on the assessment of the overall impression of the sets and not only in its individual elements, being taken into account both the graphics, phonetic and ideological aspects of the compared symbols.

Graphical aspect

The use of geometric shapes, images, colors and/or similar color combinations can contribute to generate or increase the risk of confusion or undue association between trademark sets. Thus, the comparison of graphic aspects of the symbols is critical in considering the possibility of a conflict.

While it is clearly important in the examination of figurative, combined and three-dimensional trademarks, the assessment of the graphic similarities also has relevance in the examination of nominative symbols, in which repeating sequences of letters, number of words and sentence structure and expressions can, in some cases, contribute to confusion or undue association.

Phonetic aspect

The occurrence of reproduction or phonetic imitation is one of the

determining factors in characterizing a conflict between two sets. Remember that the trademarks, even those of combined presentation, are remembered and frequently mentioned in its verbal form.

During phonetic comparison, similarities and differences are evaluated in the sequence of syllables, intonation of the words and rhythms of phrases and expressions, present in collated symbols. It should be remembered, however, that terms or visually similar expressions can produce completely different phonetic impressions.

Ideological aspect

Symbols that despite being aurally and/or graphically distinct, evoke the same or similar ideas and can also lead the target audience to confusion or undue association. This phenomenon can occur even in the case of trademarks with different forms of presentation (nominative symbol X figurative symbol), since it is a reproduction or imitation of a concept.

In the case of words or phrases in different languages, it is necessary to consider the target audience's proficiency in those languages, as well as the similarity between symbols and evoked ideas.

Principal and secondary elements

One important point to note is the dominant role of certain elements on assessed symbols, since they tend to attract public attention by fixing more readily in their memory. Such terms, phrases or images are commonly used by consumers to designate the trademark and/or product, to the detriment of the other verbal and graphic components of the trademark symbol, so that its imitation or reproduction increases the possibility of confusion or undue association between symbols in conflict.

The predominant character of an element is commonly determined by its size within the overall design, its relative position, and the use of resources that seek to emphasize it, such as typologies, ornaments, frames, or distinctive colors, among others. Another important factor in defining the dominant character of an element is the conceptual relationship it establishes with the other components of the trademark, as well as the scope of protection required.

Finally, where different sets of elements exert equal impact and visual appeal, there is no need to mention the "principal element",

as the dominant character is distributed among various components of the symbol.

Example:

Registration	Specification	Notes
	Cosmetics	The expression "FLORES DA PAZ (PEACE FLOWERS)" is the main element of the set in question, that besides being highlighted graphically, it has its own fanciful meaning. But the term "MAX", although registrable per se, plays a secondary role in the set, only complementing the highlighted expression.

Thus, in the analysis of the possibility of conflict between two or more symbols, it is essential that they comply with graphical and ideological function of the various constituent elements of the trademarks, making sure that the generated set of impressions are able to lead the target audience to confusion or undue association.

Examples:

Previous record	Application under examination	Notes
GUARAPIRANGA STEAKHOUSE indicating steakhouse services	 to designate food services	Symbols sufficiently distinct. Although the term "GUARAPIRANGA" is not found to be worn out and being part of both symbols, the sets in question are ideologically and graphically distinct, not posing a risk of confusion or improper association for the consumer. It is worth noting that, in the first symbol, the place name "GUARAPIRANGA" is the core of the trademark set. In the second symbol, the term is a mere indication of the location where the services are provided, therefore having a secondary function.
GUARAPIRANGA STEAKHOUSE indicating steakhouse services	 to designate food services	Conflicting symbols. In both sets, the term "GUARAPIRANGA" exerts the function of the principal element, being accompanied by merely descriptive terms or expressions that do not alter the ideology generated by the symbols. Finally, the joint presentation of the second set does not add any elements that distinguish it sufficiently from the earlier trademark.

		Colliding symbols. Despite the phonetic and ideological differences between the main elements of the signs being compared ("GOOD VIBES" and "GOOD TUNES"), the similarities between the other graphic elements, even if secondary, create the impression of graphically similar sets, potentially causing confusion or inappropriate associations among the target audience.

Additional information on the main and secondary elements of the trademark set can be obtained in part 5.9.1 General guidelines for analysis of distinctiveness.

Establishing conflict between symbols

The conflict between symbols will be drawn from the comparison of the overall impression of the sets, noting their graphic, phonetic and ideological aspects. This analysis of the global vision of the symbols, in order to determine whether the combination of identical or similar elements makes trademarks in conflict, subject to confusion or undue association.

Examples:

Previous record	Application under examination	Notes
		The sets in question are resembled graphically and ideologically. It should be noted that both reference the type of geographical feature ("VALLEY") qualified for adjectival semantically related phrases, since the word "MOONLIGHT" identifies the light emitted by the natural satellite of the Earth (MOON).
		Although they share the word "MOONLIGHT" the symbols in conflict, form impressions of completely different sets. The use of colors, figurative elements and different arrangements distance the sets from a graphical point of view. The nominative elements, in turn, have distinct meanings. In this sense, it

		should be noted that, in the first symbol, the word "MOONLIGHT" forms the adjectival phrase that qualifies the noun "VALLEY" at the heart of the expression. In the second set, the role of the term "MOONLIGHT" is reversed, but acts as a semantic core of the expression being qualified by the adjectival phrase "DO SERTÃO" (THE HINTERLAND).

The distinctiveness of the elements of the symbols compared is also an important factor in assessing the possibility of conflict between trademark sets, since the more distinctive the word or phrase is, the more likely that their imitation or partial or increased reproduction will cause confusion or improper association.

Finally, the frequency with which certain terms, compositional elements or graphics appear in third-party trademarks in the marketing segment in question (called the "wear of signs") also influences the possibility of confusion or undue association between the symbols as addressed in item 5.11.3 Third party registered trademark.

Characterized by the conflict of sets, the assessment passes to the degree of marketing affinity, in order to identify the possibility of confusion or undue association of the symbols on the market, the subject being addressed in section 5.11.2 Examination of marketing affinity.

5.11.2 Examination of market affinity

The analysis of market affinity is a fundamental step in assessing the availability requirement, being directly related to the principle of specialty. This stage assesses whether the degree of similarity or relationship between the goods or services distinguished by the signs being compared could lead to consumer confusion or undue association.

Although the likelihood of confusion or undue association is evident between identical goods or services, it also exists in the case of goods or services of different types when they share similar characteristics or are closely related. To assess the degree of

market affinity, the following characteristics of the goods or services are considered:

a) **Nature** : The set of essential qualities by which goods or services are known, its specific type, genre, or category. In the case of goods, nature is typically defined by a combination of factors such as composition (e.g., ingredients, components, or raw materials), operating principle (e.g., motorized, mechanical, electrical, biological, chemical, etc.), or physical state (liquid/solid/gaseous, flexible/rigid, etc.). In services, nature is typically the category into which they fall (e.g., financial services, health services, transportation services, etc.).

b) **Purpose and method of use** : expected utility or function of the goods or services, as well as their form, condition or circumstance of use or contracting.

c) **Complementarity** : goods or services are considered complementary when one is indispensable or important for the use of the other.

d) **Competition or interchangeability** : Goods or services that can be substituted for one another are considered competitors or interchangeable. Typically, these are goods or services with the same purpose and aimed at the same target audience.

e) **Distribution channels** : Goods or services that share the same distribution channels or points of sale/supply have greater market affinity, increasing the risk that they will be perceived by consumers as originating from the same source. This aspect, however, is not considered definitive for the characterization of market affinity, since medium- and large-scale establishments such as supermarkets and department stores offer goods of a wide variety of types, without any similarity or market affinity among them.

f) **Target audience** : Goods or services that target the same consumer (general or specialized) may be considered similar from a marketing perspective. However, this aspect, when isolated, is not considered decisive for characterizing marketing affinity, since many completely different goods or services are consumed or contracted by the same general public.

g) **Level of attention** : The level of attention of the target audience when purchasing goods or contracting services is also important in assessing the possibility of conflict between signs. The risk of confusion increases in cases of low level of attention on the part of the target audience, such as when purchasing goods or contracting services used daily or that require little planning. The opposite occurs in cases of high-value, infrequent, or risky purchases, when consumers typically seek additional information about the goods or services involved. Specialized consumers also tend to have a higher level of attention, as they have greater experience and knowledge of the market segment.

h) **Usual origin** : refers to the type of company responsible for manufacturing or marketing the goods or providing the services. This does not refer to the actual location of production or supply, but rather to the type of entity that is commonly responsible for such goods or services. This aspect is influenced by factors such as manufacturing/supply methods and facilities, relevant technical knowledge, and the usual market expansion practices of the agents operating in the specific market segment.

The weight of each of these criteria in assessing the affinity between goods or services depends on the greater or lesser capacity to lead the public to confusion or undue association, and is assessed according to the particular characteristics of the market segment in which the goods or services fit.

Examples:

Goods/services			Notes
Milk	×	Cheese	Similarity in nature, usual origin and distribution channel.
Sportswear	×	Tennis rackets	Affinity due to purpose.
Machines for the textile industry	×	Industrial machinery repair	Affinity due to the target audience, usual origin and complementarity.
Tablet	×	Leather cases for electronic devices	Affinity due to complementarity, target audience and usual origin.
Washing powder	×	Milk	Although they target the same general public and can be found in establishments of the same type, there is no market affinity in view of the disparity in nature, purpose and usual origin, as well as the absence of complementarity or competition.

Market affinity and the collision of signals

The assessment of the possibility of confusion or undue association between signs presupposes a considered analysis of the degree of similarity between the sets and the market affinity between the marked goods or services, in order to determine the existence of a risk of confusion or undue association on the part of the consumer.

As a general rule, the **less similar the signs, the greater the marketing affinity between the marked goods or services must be** to establish the risk of confusion or undue association. However, factors such as the consumer's level of attention, the target audience's level of specialization, the usual origin, interchangeability, and complementarity of the goods or services may increase or reduce the possibility of conflict between the sets. Particularly in cases involving the borderline zone of market affinity and similarity between signs, it is necessary to carefully assess the risks of undue association, taking into special consideration aspects such as the characteristics of the consumer market, the distinctiveness of the sets and the wear and tear of common terms and elements.

Examples:

Goods/services			Notes
KACTON to designate missiles	×	KACTON to designate tractors	Identical Symbols, lack of marketing affinity, confusion, inability to face the technological characteristics of goods, their specific use and individualized market behavior.
PHATO to designate watches	×	FACT to designate metering equipment	Similar symbols; specific goods, specialized consumers; impossibility of conflict.
TIA MATILDA DAIRY PRODUCTS to designate milk and cheese	×	MATHILDA SPICY to designate condiments	Despite the presence of the first name "MATILDA" in both signs, the fact that they form relatively distinct expressions and designate non-complementary, competing or common food products eliminates the possibility of confusion or undue association on the part of the target audience.
CITY OF AUTOMOBILES to designate automobiles	×	CAR CITY to designate automobiles	Conflicting symbols. Identical and similar services, consumer public in common, similar meanings (ideological aspect).
CAP to designate architectural services	×	CONE to designate architectural services	Sufficiently distinct signs. Identity of services, impossibility of confusion between signs due to their distinct meanings (ideological aspect). BONE (eng.) = BONE

It is worth noting that, in the case of goods that directly affect the consumer's health, such as medicines, the collision test is especially cautious, due to the serious risks that confusion between trademarks may cause.

Example:

Goods/services			Notes
LIQUOVEM to designate neurological medication	×	LYKORVEN To designate medication cardiovascular	Similar signs, marketing identity, possibility of confusion (creating a risk to the consumer, given the specific purpose of the goods and the heterogeneity of the target audience).

5.11.3 Third party registered trademark

In accordance with Part XIX of Art. 124 of the LPI, the following are not registrable as trademarks:

"(...) Reproduction or imitation, in whole or in part, even with additions of third-party trademarks registered, to distinguish or certify goods or services that are identical, similar or related, likely to cause confusion or association with third party trademarks".

For the purposes of this legal rule, the following is considered:

Imitation

The graphical, phonetic and/or ideological similarity in relation to an earlier trademark a third party, likely to cause confusion or association with such a third-party trademark regarding goods and services itself, either as to its origin or source.

The concept of imitation refers to the symbol that attempts to reproduce the style, manner, model or idea invoked by third party trademarks. The characterization of imitation therefore covers the approach of all graphics, phonetics and/or ideological trademarks claimed with regard to a prior third party, that may be confused or associated by similarity with the latter.

Imitation in whole

This is the imitation of graphics, phonetics or ideology, integral to the third-party set.

Examples:

CAVALINHO AZUL to designate children's clothing	x	CAVALINHO BLUE CAVALO AZULADO KAVALLLO AZULADO to designate clothing

JOLY to designate dairy products	x	JOLLI or JOLIE to designate yogurt

Partial imitation

Included in this category are symbols that mimic graphics, aural or ideological **parts** of such a third part trademark.

Examples:

MY MANDACARU to designate clothing	x	MANDAKKARU to designate footwear
INDALT BRAS VR2 to designate chemical products	x	NDALBRAZ to designate chemical products

Increased imitation

Are sets formed by phonetic, graphic or conceptual imitation of a third-party symbol, plus other elements.

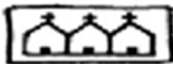
Examples:

RAPHA´S to designate furniture	x	RAFAS T to designate furniture items
VERCOL to designate insulating rubber products and plastic materials	x	VERKOLL ADD to designate plastic

Ideological imitation

Any symbol that maintains a meaning corresponding to that of the previous mark ideologically imitates a third party's previous mark.

Examples:

AUTOMOBILE CITY to designate a vehicle business	x	CAR CITY to designate a vehicle and automotive parts business
 to designate hand tools	x	BLACK HORSE to designate a metal hardware items business
THREE CHURCHES to designate milk	x	 to designate cheeses

This includes the concept of ideological imitation in cases of translation - imitation or reproduction in another language - of the earlier mark. Translations are examined on a case by case basis, and conflict between symbols provided the language is used in Brazil.

Examples:

TEA KING to designate food services	x	KING OF TEA to designate food services
SOTTO ZERO to designate ice-cream	x	BELOW ZERO to designate ice-cream and edible ices

Reproduction

Is the identical copy of previous third party trademark, besides being comprised of a complete identity (servile/faithful), there is a partial or increased reproduction of cases with a distinctive element of that symbol.

In this regard, the semantic core of the sign of the trademark, which gives meaning to a set, is rated in order to distinguish a partial reproduction or addition of a new trademark, together with its proper meaning.

Reproduction in whole

A full or faithful integrity copy of an earlier third party trademark.

Examples:

GAME OF LOVE to designate perfumes	x	GAME OF LOVE to designate cosmetics
SUNDAY IN THE PARK to designate organization of television programs	x	SUNDAY IN THE PARK to designate the organization of events
MISTER EGO to designate hairdressing salon services	x	MISTER EGO to designate personal aesthetic services
SPREEM to designate electronics	x	SPREEM to designate electronics

Reproduction in part

A partial copy of the identity of earlier third-party trademarks, or a total reproduction of its phonetic partial.

Examples :

PLIN BOST to designate chemical products	x	BOST to designate chemical products
ETIMERT to designate watches	x	TIMERT to designate sporting stopwatches
ADVANTAGE to designate sports products	x	VANTAGE to designate sports products
RIMÃO CHIC to designate entertainment services	x	RIMÃO to designate the organization of shows

Increased Reproduction

Reproduction in full, of an earlier third party trademark in the body of the registered symbol.

Examples :

LIZON to designate clothing	x	TOUT LIZON to designate leather clothing
ITAPUCA to designate alcoholic beverages	x	ITAPUCA INN to designate juices
ETIMERT to designate watches	x	ETIMERT PLUS to designate watches
 Mandacaru to designate clothing	x	 Flor de Mandacaru to designate clothing

Registered trademarks of others

The symbol is protected via registration granted by INPI.

As a result of the provisions of art.49 of INPI Ordinance No.8/2022, a sign registered with the INPI whose set of co-owners is not identical to the set of applicants for the application under examination will be considered a third-party trademark, even if some of the applicants hold the right in question. Therefore, trademark registration applications will be rejected if they imitate or reproduce a registered trademark whose set of owners is different.

Example :

Previous record	Order in exam
PARK to report property management service Co-owners: A, B and C	REAL ESTATE PARK to mark the rental and property management service Applicants: A and B
Rejection. The group of applicants for the application under examination (A and B) is not identical to the group of co-owners of the previous registration (A, B and C).	

Similar or related goods and services

Those that, although distinct in species, maintain a close relationship with each other, either in terms of the genre to which they belong, or because of their purpose, their destination, or even because of new technologies.

Guidelines for the examination of an infringement of item XIX of Art. 124 of the LPI**Conflict of symbols**

Upon examination of an infringement of item XIX of Art. 124 of the LPI, the occurrence of an imitation or reproduction, total or in part, with additions, is checked, observing the following criteria:

- The impression given to the human senses (vision and hearing) of conflicting symbols in their sets;
- Whether the expressions, even if spelled in a foreign language, although being similar, have their own distinct meanings;
- Whether or not the claimed symbol, has an ideological or intellectual conflict with an earlier mark;
- If the trademark in question, even though partially reproducing an earlier trademark, is different from that, given its context.
- If the mark under examination, within the scope of the analysis of the overall impression of the whole, contains an imitation or reproduction of a third-party trademark, to designate an identical, similar, or related goods or services, which can be recognized and identified as an independent and autonomous element, even if in a secondary position, for the purpose of providing telephone numbers, email addresses, or other forms of contact on social media, platforms, or applications.

The analysis of the possibility of conflict between trademark symbols is dealt with in section 5.11.1 Analysis of conflict between symbols.

Affinity of goods or services

Examination of conflict between trademark symbols is restricted to the specialty principle, whereby the existence of an identity, similarity or affinity in goods or services will be checked. The trademarks may even be identical, provided they do not designate goods or services in a market segment likely to cause confusion or association in the consumer's mind, except for highly renowned trademarks that have protection in all fields of activity.

If conflict is established by imitation or reproduction of any kind, the susceptibility of the required symbol will be evaluated to see if it will lead to confusion (failure to recognize differences or distinctions) or association (establishment of correspondence) with the earlier trademark, in which case the issues addressed in item 5.11.2 Examination of market affinity will be observed.

"Worn Out" Elements

When the common element between the two symbols is already part of several trademarks of different holders, it reduces the possibility of confusion or undue association between them, since it is reasonable to assume that the target audience is accustomed to the presence of such an element in trademarks from different manufacturers/suppliers in that market segment.

In such circumstances, the risk of conflict between the symbols will only be featured in the case of reproduction or imitation capable of generating graphic, phonetic or Ideological overall similarity with a prior third-party symbol.

Previous record	Application under review	Observations
RIO DE JANEIRO ORTHOPEDIC CLINIC To designate medical services	RIO DE JANEIRO HOSPITAL CLINICS to designate medical services	Symbols sufficiently distinct. Despite the affinity, symbols are sufficiently distinct. Despite the marketing affinity and reproduction of the distinctive expression "RIO DE JANEIRO" there is no conflict between the symbols, due to the fact that the expression "RIO DE JANEIRO" is included in several trademarks' symbols in the medical segment, and the trademarks have distinct sets.

MAX BRASIL to designate aircraft turbines	MAXXI BRAZIL to designate turbines and aircraft components	Conflicting symbols. Despite the fact that the element "MAX" and its variations are part of various trademarks, of different holders, the sets in question are likely to conflict since they resemble one another ideologically, phonetically and graphically, aiming to indicate identical and related goods.
PLANTUR for services related to organizing excursions, cruises [voyages] and travel reservations	TURPLAN to designate sightseeing, guided tours, travel agency (except for hotel reservations)	Symbols sufficiently distinct. Despite the marketing affinity between the designated services and the fact that they are formed by the inversion of syllables, it should be noted that the sets in question are made from a combination of evocative radicals, common to several trademarks, of different holders in the segment in question, forming graphically and phonetically distinct words.

Third party trademark Formed by a Non-Registrable Nominative Element

The mere presence of a non-distinctive expression, not exclusively registrable, in third-party trademarks, even though it plays a major role in a trademark set, does not automatically entail its removal from evaluation on the basis of the possibility of confusion or association, as referred to in part XIX of Art. 124 of the LPI. In this sense, what is taken into consideration is the degree of similarity or difference between the trademark sets, bearing in mind the criteria listed in item 5.11.1 Analysis of conflict between symbols.

The possibility of conflict between combined trademarks whose nominative element is formed solely by a non-distinctive term or expression will take into account the similarity between the main elements of the compared sets. In this sense, it is observed that the main element of a trademark plays a dominant role in the set, being commonly used by consumers to designate the marked goods or services, so its reproduction or imitation in a third-party set

poses a risk of confusion or undue association on the part of the target audience.

Examples:

Previous registration	Application under examination
 to designate clothing, granted with caveat	 to designate uniforms
Granted. The term "UNIFORMS" serves a secondary and informative function within the context under review, posing no risk of confusion or undue association on the part of the public.	

Previous record	Request under review	
 to designate clothing	×	 to designate clothing
Granted. The term "UNIFORMS" serves a secondary and informative function in the context under review, posing no risk of confusion or undue association on the part of the public.		

Previous record	Request under review	
 to designate fresh fish	×	FISH to designate fresh fish
Rejection based on parts VI and XIX of art. 124 of the LPI . The trademark under analysis does not meet the basic requirement of distinctiveness, as it consists solely of a necessary term. The sign also does not meet the availability criteria, as it reproduces a third party's registered trademark, intended to		

identify an identical product. Despite the non-registrability of the term "PEIXE," reproduction of the main element of the registered trademark would create a risk of confusion on the part of the target audience.

Previous record		Request under review
BRAZIL TELECOM to designate telecommunications services	×	CLARO BRASIL TELECOM to designate signal communication services
Rejection due to parts VI and XIX of art. 124 of the LPI . The trademark under analysis reproduces, with additions, a third party's registered trademark, aiming to designate identical services. Although the terms "BRASIL" and "TELECOM" are not registrable in isolation, the full reproduction of the registered set would create a risk of confusion on the part of the target audience.		

Previous record		Request under review
BRAZIL TELECOM to designate telecommunications services	×	OI TELECOM to designate signal communication services
Granted. The reproduction of the non-distinctive term "TELECOM" in the application under review is not likely to cause confusion with the prior trademark, given the sufficient distinction between the two sets. Therefore, it is noted that this is a partial reproduction of a term that, in isolation, is considered non-registrable to designate communication services.		

Previous record		Request under review
LEATHER & CIA to designate leather clothing	×	COMENDADOR LEATHER & CIA to designate leather clothing
Rejection due to parts XIX of art. 124 of the LPI . The trademark under analysis reproduces, with additions, a third party's registered trademark, aiming to designate identical services. Although the terms "LEATHER" and "CIA" are unregistrable in isolation, the full reproduction of the registered set would create a risk of confusion on the part of the target audience.		

5.11.4 Third party trademark, of which the applicant could not be unaware

In accordance with Part XXIII of Art. 124 of the LPI, the following are not registrable as trademarks:

"(...) Symbols that imitate or reproduce in whole or in part, a trademark that the applicant could not be unaware of due to their activity, the owner of which is established or domiciled in a Brazilian territory or a country with which Brazil has an agreement or that assures reciprocal treatment, if the trademark is intended to distinguish goods or services that are identical, similar or related, likely to cause confusion or association with such a third party mark".

This section establishes that a symbol that imitates or reproduces a trademark previously registered in Brazil or abroad, not notoriously known, under the terms of art. 6a. of the Paris Union Convention - CUP, that the applicant could not be unaware due to their activity in the same, similar or related market segment, or due to having been in a business relationship, either legal, contractual or otherwise between the parties.

The legal provision contained in Art.124, part XXIII, of the Brazilian Patent and Trademark Law (LPI) is not applied ex officio and must be invoked by the interested party through a timely objection, accompanied by evidence capable of establishing a violation of the aforementioned legal prohibition. Its application is subject to the occurrence of imitation or reproduction of a registered trademark to identify identical, similar, or related goods or services and to compliance with the requirements detailed below. It is worth noting that the challenged party need not know who owns the third-party trademark for the purposes of applying the legal provision in question.

Proof of Trademark Filing in Brazil

Acknowledgment of the allegations based on the rule in question is subject to proof of the filing of a registration application in the name of the opponent, regardless of any requirement by the INPI, as provided for in § 2 of art.158 of the LPI:

"Art. 158 Once filed, the application will be published for opposition within 60 (sixty) days.

(...)

§ 2. Oppositions, administrative nullity procedures and nullity actions based on item XXIII of article 124, or article 126 will not be recognized if proof of the filing of an application for the registration of the mark in accordance with this law is not provided within 60 (sixty) days after filing the opposition or

nullity procedure or action."

During the examination, it will be verified whether the opposing party met the aforementioned legal requirement. If the disputed trademark is not filed within the aforementioned period, the allegations based on item XXIII of art. 124 of the LPI will not be considered.

Due to the provisions of the sole paragraph of art. 50 of INPI Ordinance No. 8/2022, when the disputed trademark is registered abroad in the name of more than one co-owner, proof of filing with the INPI in the name of all co-owners must be provided in order to acknowledge the allegations based on Article 124, Section XXIII, of the LPI. However, the opposition may be filed by only one of the co-owners of the trademark previously registered in Brazil or abroad.

It should be noted that the opponent whose previous trademark was already registered or filed in Brazil when the contested application was filed is exempt from this proof.

Foreign Opponent

To be eligible for the provisions of Article 124, Section XXIII, of the Brazilian Intellectual Property Law (LPI), the foreigner must be resident or domiciled in a country that has an agreement with Brazil or that ensures reciprocal treatment. For the purposes of applying the legal norm in question, it is understood that those resident or domiciled in countries that are signatories to the Paris Convention (CUP) meet the aforementioned requirement.

The possibility of an opponent resident or domiciled in a non-CUP country invoking the aforementioned legal prohibition is not excluded, provided they prove that the country in question ensures reciprocal treatment or that it has an agreement with Brazil similar to the CUP. This is understood to mean an international intellectual property agreement entered into by Brazil with any legal entities under international law that contains clauses analogous to Article 124, Section XXIII, of the LPI or that, like the TRIPS Agreement, contains, among its provisions, the principle of national treatment.

National Challenger

Article 124, Section XXIII of the Brazilian Patent and Trademark

Law (LPI) applies to challengers residing or headquartered in Brazil. However, if the prior trademark is already registered nationally, the application of this provision must be combined with Article 124, Section XIX of the Brazilian Patent and Trademark Law.

Proof of Claims

The similarity between the signs, the duration of the prior registration, or operations in identical or similar market segments do not, in themselves, constitute proof that the challenged party is aware of the challenger's trademark. Challenges based on Article 124, Section XXIII of the Brazilian Patent and Trademark Law (LPI) must be accompanied by supporting documentation that the applicant or holder of the challenged registration clearly knew the challenger's trademark.

Such documents may characterize direct or indirect commercial relationships between the parties, involving the trademark in question or goods and services identified by it, such as:

- a) Correspondence containing negotiations regarding the use of the trademark;
- b) Contracts involving the applicant for registration, which include goods or services identified by the trademark;
- c) Proof of simultaneous participation in industry events or competitions; or
- d) Any documents that undoubtedly demonstrate knowledge of the opposing trademark by the holder of the challenged application or registration.

It is worth noting that the application of the legal rule in question is not limited to situations of a contractual relationship between the parties, also including cases of indirect commercial relationships, provided that they are documented.

The fact that the commercial relationship between the challenger and the challenged party began after the filing date of the contested application does not preclude the applicability of the legal provision, provided that the filing occurred without the knowledge or authorization of the legitimate trademark owner. Upon the effective date of the contract, the applicant or registration holder must immediately take steps with the INPI to regularize the matter by withdrawing the application, renouncing the registration,

or transferring the application or registration to the legitimate owner, in compliance with the principle of good faith enshrined in Article 422 of the Civil Code.

Opposition Based on Foreign Registration

The opponent who bases his or her claims on a trademark registered abroad must prove ownership by presenting relevant documentation, duly translated.

5.11.5 Well-known trademark

Are trademarks registered in another country which are very well known in the market, due to significant recognition by consumers, and which enjoy special protection regardless of whether previously filed or registered in Brazil, under the terms of art. 6a. of the Paris Union Convention - CUP and art. 126 of the LPI:

Paris Union Convention - CUP

"6a. (1) - The countries of the Union undertake to refuse or invalidate the registration, either administratively if legislation so permits, or at the request of the person concerned, and to prohibit use of a factory or business mark which is a reproduction, imitation or translation, liable to create confusion, of a mark that the competent authority in the country of registration or use considers it to be well-known as already being the mark of an individual protected by this Convention, and used for identical or similar goods. The same applies when an essential part of the well renowned trademark or imitation is likely to create confusion with herewith." [sic]

Industrial Property Law - LPI

"Article 126 ... A well-renowned mark in its field of activity pursuant to Article 6a (I) of the Paris Union Convention for the Protection of Industrial Property will enjoy special protection, regardless of previously being filed or registered in Brazil.

§ 1 The protection in this article also applies to service marks.

§ 2 The IPI may reject ex officio an application for trademark registration that reproduces or imitates, in whole or in part, a well-renown trademark".

Pursuant to the provisions of Article 49 of INPI Ordinance No. 8/2022, a sign registered with the INPI whose set of owners is not identical to the set of applicants for the application under

examination will be considered a third-party trademark, even if some of the applicants hold the right in question. Therefore, trademark registration applications will be rejected under Art.126 of the LPI if they reproduce or imitate a well-known trademark whose set of owners is different.

Information regarding the application of the prohibitions set forth in articles. 126 of the LPI and 6a of the CUP can be found in Section 5.12.4 Opposition based on art. 126 of the LPI.

5.11.6 Highly renowned brand

Unlike well-known trademarks, which have their recognition character provided only in their field of activity, highly renowned trademarks are signs that have such a high level of recognition by the public, enjoying an indisputable authority, a deferred knowledge and prestige, resulting from their tradition and qualification in the market and the quality and trust they inspire, linked, essentially, to the good image of their goods or services, that their fame goes beyond the limits of their market segment, thus deserving special protection by the legislator.

Art. 125 of the LPI establishes:

“ Marks registered in Brazil and considered to be famous will be guaranteed special protection, in all fields of activity.”

Pursuant to the provisions of Article 49 of INPI Ordinance No. 8/2022, a third-party trademark will be considered a sign registered with the INPI whose set of owners is not identical to the set of applicants for the application under examination, even if some of the applicants hold the right in question. Therefore, trademark registration applications will be rejected under Article 125 of the LPI if they reproduce or imitate a well-known trademark whose set of owners is different.

It should be clarified that this special protection does not dispense with the analysis of collisions between signals, according to the guidelines in item 5.11.1 Analysis of collisions between symbols.

Example :

Previous record	Request under review
CALDA Highly renowned trademark	 The logo for 'TUPI Pêssego em calda' features the word 'TUPI' in a bold, serif font, followed by a stylized illustration of three peaches on a branch. Below this, the words 'Pêssego em calda' are written in a smaller, sans-serif font. The entire logo is enclosed in a rectangular border with a drop shadow effect.
Sufficiently distinct signs. The reproduction of the term "CALDA" in the application under review is not likely to cause confusion with the prior mark, given the sufficient distinction between the two sets.	

Information regarding recognition of high renown can be found in item 9.6 High renown.

5.11.7 Trademark Duality

According to Item XX of art. 124 of the LPI, the following is not registrable as a trademark:

"Duality in trademarks of a single holder for the same goods or services, except when, in the case of trademarks of the same nature, they are presented in a sufficiently distinctive manner".

This legal rule is intended to prevent, by successive submissions of identical trademarks for the same goods or services, ownership fraud of the expiry institute, since a new registration would preclude a new registration of the trademark, despite their first registration having lapsed.

In examining of the registrability of these symbols, the following will be checked cumulatively:

- a) If the marks are not sufficiently distinctive;
- b) Whether the distinguished or certified goods or services are identical.

For purposes of applying part XX of art. 124 of the LPI, trademarks that are identical and that present the following phonetic or visual characteristics are not considered to be sufficiently distinctive:

- a) in word symbols:
 - same sequence of characters without phonetic alteration (regardless of the presence or exclusion of spaces); and
 - upper or lower case.
- b) in other presentation forms:
 - different degree of resolution applied to the same image;

- deformation of the same image, resulting from digital manipulation; and
- subtle change in the color tone of the same image.

Examples:

Registration	Application under examination	Procedure
MARIANNE word, national class 30:10, to designate coffee	MARIANNE word, in the class NCL 30, to designate coffee	Unregistrable Is the total reproduction of a registered symbol by the same holder to designate an identical product.
MARIANNE nominative, national class 30:10, to designate coffee	MARIANNE nominative, in the class NCL 30 to designate coffee, flour and biscuits	Registrable , with the exclusion of the product 'coffee' as this is already protected by a previous registration of an identical mark, by the same holder.
MARIANNE nominative, national class 30:10, to designate coffee	 in the class NCL 30, to designate coffee	Registrable
 In the national class 30:10, to designate coffee	 in the class NCL 30, to designate coffee	Registrable

The duality of trademarks belonging to the same set of co-owners for the same goods or services will also not be permitted, with the provisions of part XX of art.124 of the LPI being applied.

Examples:

Registration	Request under review	Procedure
BRUTUS word, to indicate sports articles Holders: A, B and C	BRUTUS word, to indicate sports articles Holders: A, B and C	Rejection under part XX of art. 124 of the LPI. This is an identical symbol to identify the same products.

If there is no equality between the group of applicants for the application under examination and the group of co-owners of the previously registered trademark, the application under examination will be rejected based on part XIX of art.124 of the LPI, in accordance with the guidelines in item 5.11.3 Registered third-party trademark, subtitle **Registered third-party trademark**.

5.11.8 Characteristic or differentiating element of a title of establishment

Item V of art. 124 of the LPI, establishes that which is not registrable as a trademark:

"Reproduction or imitation of a characteristic or differentiating element in the title of an establishment or company name of a third party, likely to cause confusion or association with such distinctive symbols".

The title of establishment or company name, as such, is not eligible for registration as a trademark. However, the fantasy elements contained in the body of the titles of the business or company names may be registered as a trademark, provided that are subject to the validity of the registration conditions imposed by law.

The company name is the name under which the business society exerts its activity and undertakes the acts relevant to it.

Examples:

João Xavier de Jesus MEI	Individual firm
Casas Bahia	Title of Establishment
Casa Bahia Comercial Ltda	Company Name
Globex Utilidades S.A.	Company Name

As established in the Normative Opinion AGU/PGF/PEF/INPI/COOPI No 05/2012, when examining the possibility of confusion or association between a trademark symbol and company name, the following shall be observed:

- a) If the integral element of the title of establishment or company name is distinctive;
- b) If the symbol under analysis meets the conditions of distinctiveness, lawfulness and truthfulness;
- c) If the similarity between the sets in question is capable of generating confusion or undue association;

- d) If the activities carried out by the contesting company possesses marketing affinity with the goods and/or services the trademark symbol is intended to highlight; and
- e) If the registration of the business name predates the submission/registration of the trademark.

It is noteworthy that a formal demand for proof of the date of establishment of the company or title of establishment will not be made, because the contesting party must present evidence of the allegation in the act of the opposition.

If the goods or services designated in the contested trademark application should not correspond, unequivocally, with the main contesting activity, INPI may issue a formal demand for that which proves the effective exercise of the activity in question.

Examples:

NECCHI to designate industrial refrigeration machinery	Unregistrable, since the "NECCHI" trademark is phonetically identical and graphically similar to the characteristic or differentiating element of the name of the contesting company NECHI MÁQUINAS INDUSTRIAIS LTDA, which operates in the same, similar and/or related market segment, with documentary proof of registration with the Trade Board, on a date prior to the application for trademark registration.
 to designate banking and credit card services	Unregistrable, since the trademark "ALVORADA CARD" additionally reproduces the differentiating element of the name of contesting company BANCO ALVORADA S.A. with an addition, which operates in an identical/similar/related market segment, proven by registration documentation with the Trade Board on a date prior to the trademark registration application.

Claims submitted under Art.124, part V, of the LPI will be considered admissible when at least one of the opposing parties holds the right to the business name in question. Similarly, arguments against the opposition, based on the same provision, will also be considered valid when at least one of the applicants of the application under challenge holds the right to the business name in question.

Companies with the Same Business Name

In cases where the disputed trademark is present in the business name of both companies, the right to register and use the trademark belongs to the first party to file the application with the INPI, regardless of the date of incorporation of the legal entity. However, if the opposing party's previous application or registration is archived or terminated, the claims based on item V of art. 124 of the LPI will be considered unfounded, since the right claimed with the INPI has not been consolidated.

Examples:

	Registrable. Although the symbol reproduces with an addition the differentiating element of the contesting company's name BANCO ALVORADA S.A., whose date of incorporation is prior to that of the applicant, the latter is favored because of the priority in submitting the symbol.
to designate banking and credit card services, applied for by ALVORADA SERVIÇOS FINANCEIROS LTDA.	

It is worth noting that if the claims based on the prior use of the mark by the user are considered to be valid, the application for registration will be rejected on the basis of arts. 124, part V, and 129, § 1 of the LPI. If the applicant for request under examination and the contestant prove the pre-use of the trademark symbol for at least six (6) months prior to the filing date, the application of the rule laid down in § 1 of art. 129 of the LPI is withdrawn, regardless of who had the longer use.

Foreign Companies

Regarding the company name, another positive standard also regulates their protection, deviating from the principle of territoriality, and dispenses with formal registration in Brazil. As such, art. 8 of the CUP, provides that:

"Art. 8. A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not it forms part of a trademark".

In the case of foreign impugned parties, in addition to the procedures mentioned above, it is necessary that they prove their

performance in the domestic market through advertising promotion in the media or any other means of evidence admissible in law, in order to characterize the possibility of confusion or association between the distinctive symbols.

5.11.9 Name or acronym, of an entity or public agency

Item IV of art. 124 of the LPI, establishes that the "Name or acronym of an entity or public agency, when registration is not requested by that public entity or agency," may not be registered as a trademark.

For the purposes of this section, Public Agencies are understood to be each of the Direct Administration units the Public Administration is divided into, whether Federal, State or Municipal. Direct (or Centralized) Administration, is understood to be that which is provided by the Government itself, in its name and under its responsibility, or is directly linked to the administrative structure of the three powers of the Union - Federal District, State and Local Governments. The following is a non-exhaustive list.

- **Executive Power:** Presidency of the Republic, Ministries, their respective Departments, State Governments, Prefectures.
- **Legislative Power:** The National Congress, Senate, House of Representatives, City Councils, Union Audit Courts (TCU).
- **Judicial power:** Superior Court of Justice (STJ), the Federal Supreme Court (STF), Regional Labor Court (TRT), the Regional Federal Court (TRF), the Regional Electoral Court (TRE), the Superior Labor Court (TST), the Superior Electoral Court (TSE).

The following institutions (non-exhaustive list of examples), are considered to be public entities, belonging to the sphere of Indirect Administration (or decentralized), of a legal nature of public or private law:

- **Local Authorities** (legal nature of public law): INPI, INMETRO, INSS, RADIOBRÁS, UFRJ, UFF, ANCINE, ANVISA, IBAMA, INCRA, BACEN.
- **Public companies** (legal nature of private law): BNDES, Correios, Caixa Econômica Federal, DATAPREV, SERPRO.
- **Combined Economy Companies** (legal nature of private law, where the shares with voting rights belong mostly to the Union or the Indirect Administration entity): FURNAS, PETROBRÁS, ELETROBRÁS, BANCO DO BRASIL.
- **Public Foundations** (legal nature of public law): FIOCRUZ, FUNAI, IBGE, National Library.

Not covered in this rule, are private and autonomous institutions such as sports confederations (CBF CBDA, CBV among others), private foundations, political parties, non-governmental organizations (NGOs) and independent social services (legal entities of private law arranged parallel to the state, to perform the commitments of interest but not their private ones, for example, SESI, SESC, SENAI, Senac and SEBRAE).

The prohibition referred to in this section is not absolute, and a symbol may be registered, when claimed by the entity or public agency.

The prohibition referred to in this section is independent of goods and services to which the symbol applies.

Also included in the prohibitions of this section is a prohibition on registering symbols that contain names or acronyms of foreign organizations or government agencies. The protection extends to intergovernmental institutions, such as, for example, MERCOSUR, UN, UNESCO and WIPO.

Designations and acronyms of agencies and entities already extinct, or those that have fallen into disuse (having been replaced by others, to identify the same agency or entity), will no longer be subject to protection.

Autonomous Regulatory/supervisory entity classes will be protected, given that in addition to exercising functions of public interest (performing absolute roles within their respective segments) they have a legal nature corresponding to the municipalities. e.g.: OAB (Order of Attorneys of Brazil), CREA (Regional Council of Engineering and Architecture), CRM (Regional Council of Medicine) and the like.

As regards the application of this legal standard, it is important to assess whether there is a possible association between the acronym or name of the entity or public agency and the symbol claimed. If not, this legal rule will not apply.

a) Symbol identical to the acronym of an entity or public agency, but broken down to be completely distinct form of the name that corresponds to the official acronym.

Examples :

BACEN For any product or service	Unregistrable, because it reproduces the acronym relating to the Central Bank of Brazil.
CRP To designate psychological advice	Unregistrable because it reproduces the acronym of the "Regional Council of Psychology," a private entity with legal nature corresponding to the municipality.
IBC to designate agricultural research	Registrable, considering that the federal agency "Brazilian Coffee Institute," was abolished in 1990.
INSS to designate medical services	Unregistrable for reproducing the acronym on the National Social Security Institute, to identify related activities, thus having the possibility of confusion or undue association between them.
INMETRO Institute of Materials and Testing of Rapid Objects to designate materials testing services	Unregistrable by reproducing the acronym "INMETRO" relating to the "National Institute of Metrology, Standardization and Industrial Quality". Although the acronym is broken down differently from the entity's name.
MACHADO DE ASSISI STATE SCHOOL to designate school uniforms (required by third party)	Unregistrable, as state or municipal schools are public entities.
FEDERAL UNIVERSITY OF TOCANTINS to designate educational services (required by the entity)	Registrable.

b) Symbol identical to the acronym of a public entity or body, without, however, any possibility of association with the same (for cases where the public body or entity are not identified by the company through its acronym).

Examples :

MPE - OFFICE FURNITURE To designate furniture	Registrable. Although the symbol reproduces the acronym "MPE" relating to the public agency "Public Electoral Ministry" there is no possibility of confusion or undue association between them.
PHIO-KRUS To designate medical research	Unregistrable, because of its phonetic reproduction of the Acronym FIOCRUZ - Oswaldo Cruz Foundation.

PHIO-KRUS	Unregistrable, because of its phonetic reproduction of the Acronym FIOCRUZ - Oswaldo Cruz Foundation.
To designate auto mechanics	

5.11.10 Geographical indication

Part IX of art. 124 of the LPI states that it is not registrable as a trademark, "geographical indication, its imitation likely to cause confusion or symbols that might falsely suggest a geographical indication".

In implementing the standards that contain this command, check the following:

- a) If the symbol constitutes an indication of origin, i.e., geographical name designating a location that has become known as a center of extraction, production or manufacture of certain products or provision of a particular service;
- b) If the symbol constitutes a designation of origin, i.e., a geographical name designating a location intrinsically connected to goods and services, whose qualities or characteristics are primarily or exclusively influenced by human and natural factors, such as soil, subsoil, climate or vegetation.

This item deals with trademark prohibition that contains geographical indication (GI), whether true or false; It means that this legal provision prohibits a trademark consisting of a geographical indication by applicants established in the locality or not. In the case of a reproduction of geographical indications not registered in Brazil, the prohibition in section X of art. 124 of the LPI is applicable.

In cases of trademarks formed by the reproduction or imitation of a geographical indication, to designate goods similar to those which are intended for a GI, the following guidelines shall be observed:

- If the applicant is from the region referred to in the geographical indication, the application will be rejected by item IX of art. 124 of the LPI.
- In cases of applicants based in other regions, the application will be rejected by item X of art. 124 of the LPI, as it is a false indication of source.

Only the producer or service provider established in the demarcated location and who is authorized, as set out in the technical specifications book, will have the right to use the geographical indication.

Examples:

VINHOS VERDES DE LA SIERRA to designate wines (Argentinian applicant)	Unregistrable, because "VINHOS VERDES REGION" is a designation of origin for wines.
SACRAMENTO FRANCIACORTA to designate drinks (Italian applicant)	Unregistrable, because "FRANCIACORTA" is a designation of origin for wines.
CAMPANHA MERIDIONAL to designate processed meats (Brazilian applicant)	Unregistrable, because of the "PAMPA GAÚCHO MERIDIONAL CAMPAIGN" indication as to the origin of the meat.

Imitations of geographical indications also cannot be registered and are included in this item.

Examples:

REGIÃO DOS VINHOS VERDES to designate wines	Unregistrable, for imitating the designation of origin for wines as being from the "REGIÃO DOS VINHOS VERDES".
CAMPAÑA MERIDIONEL to designate processed meats	Unregistrable, for imitating part of the indication of the source of the meat as "PAMPA GAÚCHO MERIDIONAL CAMPAIGN".
VAL DEL VIÑEDOS to designate sparkling wines	Unregistrable, for imitating the indication that the source of the wines is the "VALLEY OF VINEYARDS."

Symbols that may lead to false geographical indication, which also may not be registered, are included in this item.

Examples:

FRANCIACORTE to designate wines (Paraguayan applicant)	Unregistrable for being a symbol that induces false geographical indication, as FRANCIACORTA is a designation of origin for Italian wines.
MERIDIONÊS CAMPAIGN MEATS to designate meats (Portuguese applicant)	Unregistrable for being a symbol that induces false geographical indication, as "PAMPA GAÚCHO SOUTHERN CAMPAIGN" is a designation of origin for Brazilian meats.

Trademark registration applications containing geographical indications pending decision

The examination of trademark applications, of any nature, that contain imitation or reproduction of a geographical indication still pending a final decision will be suspended until the INPI issues a decision regarding the registration of the GI in the country.

Cachaça

It should be noted that the terms "CACHAÇA," "BRAZIL" and "CACHAÇA OF BRAZIL" to designate "sugarcane liquor" also may not be registered and are included in this item, under the provisions of Decree No. 4,062/2001.

Formal demand

In the case of symbol containing a reproduction or imitation of a geographical indication recorded in Brazil, accompanied by other distinctive elements, will be subject to a formal demand for the applicant to declare his desire to continue with the registration application to the exclusion of the terms in question for the required set as a trademark.

However, the formulation of such a requirement will be subject to the subsisting part of trademark sign not changing the main characteristics of the symbol originally required. In addition, the subsistent set must be considered registrable, and cannot infringe any other provisions of the LPI and in particular art. 124, part XX, the LPI.

Example:

	Unregistrable by containing the term "cachaça", which was considered a geographical indication under Decree No. 4,062/2001. A formal demand will be made to the applicant to say whether they wish to remove the term "cachaça", and continue with the application for registration. However, the availability, lawfulness, truthfulness and distinctiveness of subsisting symbol will be observed.

Registrability of geographic names

Art. 181 of the LPI establishes that:

"A geographical name that does not constitute an indication of source or a designation of origin may serve as a characteristic element of trademark for goods or services, provided they do not

suggest a false source”.

Therefore, a geographic name that is the names of a locality, city, region or country, do not fall under the prohibition contained in section IX of art. 124 of the LPI, provided they do not lead to a false geographical indication.

Examples:

PARIS to designate ice-cream	Registrable
NOVA FRIBURGO to designate salt	Registrable
CAMPOS DOS GOYTACAZES to designate footwear	Registrable

5.11.11 Collective trademark or certification mark extinct for less than 5 years

In accordance with item XII of Art. 124 of the LPI, the following are not registerable as trademarks:

“reproductions or imitations of symbol that have been registered as a collective trademark or certification by a third party, subject to the provisions of art. 154”.

Art. 154 of the LPI, in turn, provides that:

“A collective mark and certification which have already been used and whose records have become extinct may not be registered in the name of a third party, before the expiry of five (5) years from the extinction of the record”.

In this legal standard it is understood that:

- a) Applications that conflict with a collective trademark or certification extinct for less than five (5) years, will only be rejected;
- b) Only the former holder of the extinct registration may request a new application for the collective trademark or certification without observing the term of five (5) years;
- c) Conflict will be applied only in cases where the trademark seeks to identify or certify an identical, similar or related goods or services;

The procedures described in items 5.11.3 Third party registered trademark, 5.11.1 Analysis of conflict between symbols, and 5.11.2 Examination of marketing affinity, are used to determine the conflict.

5.11.12 Name, award or symbol of official or officially recognized events

In accordance with item XIII of Art. 124 of the LPI, the following are not registerable as trademarks:

"(...) Official or officially recognized names, awards or symbols of sporting, artistic, cultural, social, political, economic or technical events, as well as an imitation likely to cause confusion, except when authorized by the competent authority or entity promoting the event".

For the purpose of this legal standard, the following definitions shall be considered:

- a) The official or officially recognized character;
- b) The presentation of consent of the competent authority or entity organizing the event.

Official events are those conducted or promoted by a public, national or foreign body or entity. In turn, events considered to be officially recognized are those that although of a particular character, are recognized by the public authority.

For the purpose of this legal standard, the following aspects shall be considered:

- a) Being an official or officially recognized event, registration of the symbol is possible if claimed by the public entity or body, or a third party authorized by it, that conducts or promotes the event, regardless of goods and services to which the trademark is applied.
- b) Not being official or officially recognized, the application shall be considered as if an original available symbol.

In cases of applications for registration of a mark formed by a name, award or symbol of an official or officially recognized event, submitted by a third party, a formal demand will be made for proper permission from the organizer to be presented, in view of the exception set out in item XIII of art. 124 of the LPI (consent of the competent authority or organizing entity of the event).

When the application for registration of a trademark formed by the name, award or symbol of an official or officially recognized event is filed under a co-ownership regime, the appropriate authorization

must expressly allow the registration of the symbol by all applicants for the application, even if the competent authority or organizer of the event in question is part of the group of applicants.

Examples :

F1 GRAND PRIX	Unregistrable (regardless of goods or services), if not requested by the event organizer (FIA International Automobile Federation) or by an authorized third party.
	Unregistrable (regardless of goods or services), if not requested by the event organizer (Academy of Motion Picture Arts and Sciences - AMPAS) or by an authorized third party.
	Unregistrable (regardless of goods or services), if not requested by the event organizer (All England Lawn Tennis & Croquet Club Limited) or by an authorized third party.
	Unregistrable in accordance with § 2 of art. 15 of Law No. 9981/2000 (Maguito Vilela Law), published in D.O. on 17/07/2000: § 2 - "It is the Brazilian Olympic Committee - COB and the Brazilian Paralympic Committee - CPOB that have exclusive right to use the flags, slogans, hymns and symbols of the Olympics and Paralympics, as well as the names " Olympic Games", "Olympics", "Paralympic Games" and "Paralympics", the use of the latter being permitted in the case of events related to educational sport and participation."
ECOLOGICAL OLYMPICS	Unregistrable (regardless of the goods or services), unless requested by the event organizer or authorized third party, in accordance with Laws No. 12,035/2009 and 9,615/1998 and Decree No. 90,129/1984.

Trademarks containing the adjective "Olympic" and its variations

Regarding the adjective "Olympic" and its variations, although they are not expressly listed in Laws No. 12,035/2009 and 9,615/1998 or in Decree No. 90,129/1984, they could, in certain sets, fall under the prohibition set forth in Article 8 of Law No. 12,035/2009, since they would be similar to the list of Olympic symbols listed as

potentially capable of "causing undue association with any products and services."

Therefore, when examining signs containing the adjective "Olympic" and its variations in gender and number, including in other languages, it is observed whether:

- a) The adjective appears in meanings other than those associated directly or indirectly with the sporting event; or
- b) If the resulting set maintains sufficient ideological distance to the point of not posing a risk of undue association with the sporting event in question.

If so, the prohibition provided for in part XIII of art. 124 of the LPI will not be applied .

Examples:

OLYMPIC GODS	Registrable (for any goods or services), since, in the set on screen, the adjective "OLÍMPICO" forms an expression with its own meaning and dissociated from the sporting event "Olympic Games".
OLYMPIC	Unregistrable (for any goods or services), in view of the provisions of part XIII of art. 124 of the LPI (if requested by third parties without the authorization of the organizers). In this case, the term "OLIMPIC" is not accompanied by any distinctive element capable of eliminating the association with the sporting event.
	Unregistrable (for any goods or services) in view of the provisions of part XIII of art. 124 of the LPI (if requested by third-parties without authorization from the organizers).
	Registrable (for any goods or services), since, in the set on screen, the adjective "OLÍMPICA" forms an expression with its own meaning and dissociated from the sporting event "Olympic Games".
OLYMPUS JEWELRY	Registrable (for any goods or services), since the term "OLIMPO" identifies a mountain in Greece, and is therefore not associated with the sporting event "Olympic Games".

5.11.13 Third party industrial design

In accordance with item XXII of art. 124 of the LPI, "objects that are protected by third party industrial design registration, are not registrable as a trademark".

Pursuant to art. 95 of the LPI, industrial design is considered to be "ornamental plastic form of an object or the ornamental set of lines and colors that can be applied to a product, providing a new and original visual result in its external configuration and that may serve for a type of industrial manufacturing".

The prohibition in item XXII of art. 124 of the LPI is of an absolute nature, a trademark, which constitutes a third-party industrial design object in any class of goods or services, is forbidden, even if the conflicting elements are associated in principle, with other registrable trademarks. This standard, however, does not apply to cases where the requesting applicant is the proprietor of the industrial design, which does not exempt the symbol meeting the other requirements of lawfulness, distinctiveness and availability.

In examining conflict between the conflicting symbols the same procedures established for the examination of conflict between figurative marks will be observed.

Example:

	Unregistrable in cases of dispute regarding the proof of ownership of industrial design registration (still in effect). If there is no objection, the same is considered to be registrable.
	Rejected based on items I and XXII of art. 124 of the LPI, if there is any challenge as to the proof of ownership of industrial design registration (still in effect) for the trade mark application. If there is no objection, the symbol will be rejected on the basis of Part I of Art. 124 of the LPI, due to the reproduction of the Brazilian flag.

Note: The industrial design registration will be valid for ten (10) years from the date of filing, renewable for three (3) consecutive periods of five (5) years each.

5.11.14 Name, surname and image of third parties

As established in Part XV of Art. 124 of the LPI, the following are not registerable as trademarks:

"Personal names or signatures thereof, family or patronymic names and images of third parties, except with the consent of the owner, his heirs or successors".

For the purpose of that legal standard, the following is to be considered:

• **Personal name:** the full composition of the individual's name, including their Christian name(s) and surname, or their abbreviated form, according to the Civil Registry of Natural Persons.

Examples:

JOÃO SILVESTRE	Capable of registration if deposited by the holder of personality rights themselves, their heirs and successors or under authorization.
ANTÔNIO PACHECO	
JOÃO PACHECO SILVESTRE	

• **Signature:** written or stylized personal name with own distinctive nature of the holder thereof. The understanding of signature accompanies the personal name, which may therefore constitute the full name and/or abbreviated forms of personal name.

Examples:

 Sergio Tadeu de Jesus	If the applicant of the registration request is the holder of personality rights or existing authorization for registration as a trademark, it shall not apply to that legal prohibition.

• **Family name (surname):** surname derived from a predecessor of the same family.

Examples:

PACHECO	If there is no previous impediment, the registration will be possible.
SILVA	

• **Patronymic:** surname designation of a line that brings in its semantic constitution sense to appoint someone's son.

Examples:

PEREIRA	If there is no previous impediment, the registration will be possible.
GONÇALVES	

SENNA	If the applicant of the registration request is the holder of personality rights or existing authorization for registration as a trademark, that legal prohibition shall not apply. Otherwise, the application will be rejected on the basis of this legal provision. If there is a previous impediment, registration will not be possible.

• **Image of third parties:** likeness and/or representation, by any means, of an image of a natural person distinct from the trademark applicant.

Example:

	If the applicant is the holder of the right of the known personality in question, or if there is authorization to register it as a trademark, said legal prohibition shall not apply.

The legal provision laid down in item XV of art. 124 of the LPI is based on the rights of the personality, regulated by the Civil Code. Thus, registration applications that present symbols made up of personal names, signatures and images of third parties (whether well-known or not) and whose applicant is not the holder of the rights to the personality themselves, the application must be accompanied by the authorization of the right holder to register it as a trademark.

Application filed by the holder of the personality right

The individual or sole proprietor, including individual microentrepreneurs (MEI), is considered the holder of the personality right itself. Authorization for registration is not necessary when the trademark is filed by them. In the case of companies in which the holder of the personality right is one of the partners, their express authorization is required to register their name, signature, or image as a trademark in the name of the applicant company. It is worth noting that a single-member limited liability company (SLU), which replaced the individual limited liability company (EIRELI), is also required to submit this authorization, even in cases where its owner holds the personality right contained in the sign sought to be registered.

Application filed under a co-ownership regime

When the application for registration of a trademark consisting of a civil name, patronymic, signature, or image of a person is filed under a co-ownership regime, the appropriate authorization must expressly allow registration of the sign by all applicants, even if the holder of the personality right in question is one of the applicants.

Authorization to Register Third Parties' Civil Name, Patronymic, Signature, and Image

The aforementioned authorization must be included in each trademark registration application based on a third party's personality right, regardless of previously acquired trademark rights. It is worth noting that, for the purposes of the provisions of the same law, authorizations are accepted for applications, requests, submissions or registrations of personal rights as a trademark. However, authorizations only comprising the "use" of personality rights are not accepted.

It should be noted that only in cases of notoriety will the requirement be made for presentation of the authorization of patronymic and family name for registration, since the application of the right of the notorious personality, without the consent of the holder of such right, may constitute a parasitical exploitation or unfair competition, facts that are rejected by both Brazilian legislation and the CUP (Paris Union Convention), the reason for the requirement should be justified at the time of registration.

In the case of family names or patronymics originating from terms or expressions with their own meanings, even if well-known, the prohibition set forth in item XV of art. 124 of the LPI will not apply when their presence in the requested context does not indicate their status as a family name or patronymic.

Personality Rights of a deceased person

As established by part XV of art. 124 of the LPI, it is up to the heirs and successors of the right to register or authorize the registration of a deceased individual's personal name, surname or image as a trademark. Legitimacy for authorization or registration must comply with the order of succession provided for in art. 1,829 of the Civil Code:

Art. 1,829 - Legitimate succession is deferred in the following order:

- I - To the descendants, in competition with the surviving spouse, unless the spouse was married to the deceased in the scheme of universal communion or compulsory separation of property (Article 1,640, sole paragraph.); or, if in the scheme of partial communion, the author of the inheritance has not left private assets;
- II - To the ascendants, in competition with the spouse;
- III - To the surviving spouse;
- IV - To other collateral relatives.

Note: as provided for in art. 1,592 of the Civil Code, relatives in the collateral line to the fourth degree, are people from a single trunk, without descents from each other (brothers, uncles and cousins). In the collateral line, the degrees of kinship are counted by the number of generations, upwards to a common ascendant and downwards until reaching another relative.

In this way, participants listed in Item I of art. 1,829 of the Civil Code compete on an equal opportunity basis to make or authorize the registration of the mark. Potential heirs listed in sections II, III and IV will only be entitled to make or authorize the registration in the event of the lack of other participants indicated in the preceding paragraphs.

In the case of participants listed in the same section, the right to register for the first successor or heir to submit the application for trademark registration application, based on the attributive principle of right, will prevail, provided it is not contested under the terms of the LPI.

The INPI shall treat declarations from as true, until challenged via opposition or administrative revocation, made by trademark registration applicants that call themselves heirs/successors, regarding the provisions of item XV of article 124 of the LPI. Additionally, it is not necessary to present the express consent of all heirs or successors when applying for trademark registration.

However, in the event of a third-party challenge, a copy of the death certificate of the holder of the personality right and other necessary documents must be presented to prove the applicant's

legitimacy. Furthermore, objections or administrative nullities filed by an heir of equal or higher order in the hereditary vocation will be considered admissible regarding the violation of item XV of art. 124 of the LPI, with the consequent denial, in the case of an application, or nullity, in the case of registration.

It is worth noting that the same rules apply to situations when a third party presents an authorization to register the identifying symbol of the individual's personality rights, signed by an heir/successor of the deceased.

Personality Rights of Minors Under 18

Registration of the legal name, signature, or image of a minor under 18 as a trademark is only possible if requested in the minor's name (as per item 5.5.4 Minor under 18). Authorization signed by parents or legal guardians will not be accepted. In the case of legally emancipated minors, authorization signed by the minor will be accepted, provided it is accompanied by documentation proving emancipation, in accordance with the law.

Cases of conflict

Personality rights, as well as trademark rights, are regulated by the Federal Constitution, and therefore subject to common laws. Everyone has the right to use their name in the civil sphere, however, in the trademark world, personality rights should be limited, otherwise they prejudice the rights of the consumer and the actual holder of the first trademark registration.

In the case of trademarks composed of patronymic, family name and personal names, registration will be granted on a first come, first served basis. Thus, applications for registration of trademarks consisting of identical or similar patronymic, family names or personal names, to indicate identical, similar or related goods or services, will be rejected by the legal standard contained in item XIX of article 124 of the LPI.

Although the holder of the patronymic, family name or personal name maintains their personal rights in the civil sphere, in the trademark world the claim will be favorable to those who submit it first.

Examples :

Registration		Symbol under examination	Notes
PEREIRA Indicating air conditioning repairs	x	PEREIRA to designate repairs and installation of appliances	Rejected in light of item XIX of art. 124 of the LPI. Although "PEREIRA" is a patronymic of the holder of the request, as a trademark, it has a legal impediment in item XIX of Art. 124 of the LPI, in that it may not constitute a trademark according to the interests of the registration holder and of the consumer public.
GOMES indicating non- alcoholic drinks	x	MACIEL GOMES to designate non-alcoholic beverages	Accepted, since the patronymic association, comprising the new trademark set, creates the impression of a different person from the previous registration
CLARA indicating perfumes	x	ANA CLARA to designate cosmetics and perfumery	Approval, since the combination of the two given names creates the impression of a person distinct from the previous registration
CLAUDIA indicating education services	x	CLÁUDIA! to designate education services	Rejected in light of item XIX of art. 124 of the LPI. Although "CLAUDIA" is the Christian name of the trademark applicant, the symbol encounters a legal impediment to the rule contained in item XIX of art.124 and may not constitute a trademark in the interests of the first holder of the record and the consuming public.

5.11.15 pseudonym or artistic name

As established in Part XVI of Art. 124 of the LPI, the following are not registerable as trademarks: "A well-known singular or collective artistic name, pseudonym or nickname, except with the consent of the owner, his heirs or successors".

For the purpose of this legal standard, the following definitions shall be considered:

- **Famously known pseudonym:** the name chosen by an individual to disguise or hide their true identity, for which they are well known.

Examples:

PIXINGUINHA	Pseudonym of Alfredo da Rocha Viana Junior
TRISTÃO DE ATAÍDE	Pseudonym of Alceu Amoroso Lima
MADAME SATÃ	Pseudonym of João Francisco dos Santos

• **Well known Nickname:** the nickname or alias, the special designation given to an individual, by which they are well known.

Examples:

GUGA	Nickname of former tennis player Gustavo Kuerten
ZICO	Nickname of former player Arthur Antunes Coimbra
SKIN	Nickname of former player Edson Arantes do Nascimento

• **Singular (individual) or collective artistic name:** the name by which a person or group of people is known in their field of activity (in the artistic world in general).

Examples:

ZECA PAGODINHO	Artistic name of Jesse Gomes da Silva
CHITÃOZINHO E XORORÓ	Artistic name of the duo José de Lima Sobrinho and Durval de Lima
TITANS	Collective artistic name of a musical group

In cases where the artistic name is distinctive (special, notable), and does not exist as a common term or expression in the vocabulary, their registration is prohibited for any goods or services, as in the case of Chitãozinho and Xororó and Zeca Pagodinho, since such expressions refer only to vocal duos or pagode (samba) singers.

In turn, where the stage name (collective or singular) consists of terms or expressions found in the vernacular, their registration is lawful, provided it does not designate goods or services that establish association with the activities developed by the artists.

Examples:

GUGA (nickname of tennis player Gustavo Kuerten) to designate goods or services related to tennis sport	Unregistrable, if there is no authorization of the tennis player Gustavo Kuerten.

PELÉ (Soccer Player nickname for Edson Arantes do Nascimento) To designate any goods or services	Unregistrable, if there is no authorization of Edson Arantes do Nascimento.
ZECA PAGODINHO (Artistic name of Jesse Gomes da Silva) To designate records and tapes or any other good or service	Unregistrable, if there is no authorization of Jessé Gomes da Silva.
TITANS (Collective artistic name of a musical group) To designate "records and tapes"	Unregistrable, if there is no competent authorization.
TITANS To designate "industrial machinery"	Registrable, considering that the stage name consists of a term found in the vernacular (designation of Greco-Roman mythological figure), and the goods marked do not refer to activities by TITANS musical group.

For the purpose of applying Article 124, section XVI, of the LPI, it is equivalent to the pseudonym and famously known nickname of a well-known given name of an individual as well as a famously known patronymic name.

ROMÁRIO To designate a soccer school	Unregistrable, without appropriate authorization of Romario de Souza Faria, given that the designated services can be related to the activities developed by the sportsman.
PORTINARI To designate any goods or services	Unregistrable, without competent authorization from the owner of the personality rights. In view of it being patronymic and that it became the artistic name of Cândido Portinari.

In examining the registrability of symbols, it will be checked as to whether the applicant is entitled to register the pseudonym, nickname or artistic name, because of the symbol. When the applicant is the respective holder, this rule will not apply. However, if there is no relationship between the applicant and the person nominated or identified by the symbol, the consent of the respective owner or their heirs or successors will be required, under penalty of rejection in the case of an application, or nullity in the case of a registration.

When the application for registration of a trademark formed by a pseudonym or artistic name is filed under a joint ownership regime, the appropriate authorization must expressly allow registration of the sign by all applicants, even if the owner of the personality right in question is part of the group of applicants.

Authorization for Registration of a Pseudonym or Artist Name

The aforementioned authorization or consent must be included in each trademark registration application constituted by a third-party personality right, regardless of previously acquired trademark rights. For the purposes of the aforementioned legal provision, authorizations are accepted for the application, request, filing, or registration of the personal right as a trademark. However, authorizations that encompass only the "use" of the personality right are not accepted.

In the case of symbol consisting of a singular or collective stage name, if the registration was legitimately applied for by an individual for this purpose, this legal rule will not apply.

Personality Rights of a deceased person

The right to register or authorize the registration of a pseudonym, or famously known nickname and stage name of a deceased person as a trademark, will be up to the heirs and successors. Legitimacy for authorization or registration must comply with the order of succession provided for in art. 1,829 of the Civil Code:

Art. 1,829 - Legitimate succession is deferred in the following order:

- I - To the descendants, in competition with the surviving spouse, unless the spouse is deceased, in the scheme of universal communion or compulsory separation of property (Article 1,640, sole paragraph.); or, in the scheme of partial communion, the author of the inheritance has not left a will;
- II - To the ascendants, in competition with the spouse;
- III - To the surviving spouse;
- IV - To other collateral relatives.

Note: as provided for in art. 1,592 of the Civil Code, relatives in the collateral line to the fourth degree, are people from a single trunk, without descents from each other (brothers, uncles and cousins). In the collateral line, the degrees of kinship are

counted by the number of generations, upwards to a common ascendant and downwards until reaching another relative.

In this way, participants listed in Part I of Art. 1,829 of the Civil Code compete on an equal opportunity basis, to make or authorize the registration of the mark. Potential heirs listed in sections II, III and IV will only be entitled to make or authorize the registration in the event of the lack of other participants designated in the preceding paragraphs.

In the case of participants listed in the same section, the right to register for the first successor or heir to submit the application for trademark registration, based on the attributive principle of law, will prevail, since it is not contested under the terms of the LPI.

The INPI will treat as truthful, until challenged by opposition or administrative nullity, the statements of trademark registration applicants who claim to be legitimate heirs/successors regarding the provisions of Article 124, Section XVI, of the LPI. Furthermore, the express consent of all heirs or successors is not required when filing the trademark registration application.

However, in the event of a third-party challenge, a copy of the death certificate of the holder of the personality right and other documents necessary to prove the applicant's legitimacy must be presented. Furthermore, oppositions or administrative nullities filed by an heir of equal or higher order in hereditary vocation will be considered admissible regarding the violation of Article 124, Section XVI, of the Brazilian Patent and Trademark Law, resulting in denial, in the case of an application, or nullity, in the case of a registration.

It is worth noting that the same rules apply to situations when it is presented by a third party, authorized to register the identifying symbol of the individual's personality rights, signed by an heir/successor of the deceased.

5.11.16 Works protected by copyright

As established in Part XVII of Art. 124 of the LPI, the following are not registerable as trademarks:

"Literary, artistic or scientific work, as well as titles protected by copyright and likely to cause confusion or association, except with the consent of the author or owner".

Literary works are those externalized verbally, including poems, song lyrics, prose, epics, narratives, novels, sermons, conferences, folk stories, etc.

The concept of artistic work is broader, encompassing various manifestations of the spirit, such as drawings, prints, sculptures, music (melody), architectural works, cinematographic works, photographic works, pantomimes and everything that cannot be included in the concept of literary work. The scientific works are often contemplated, because they are classified as literary works.

As established in Article 7 of Law No. 9,610 of 19/02/1998 - Copyright Act: "intellectual works are the creations of the mind, howsoever outwardly expressed".

Therefore, ideas are not protected, but only tangible externalized forms of expression.

Copyright Law, according to the Bern Convention, as well as CUP, establishes minimum standards of protection for intellectual creations, dispensing with registration, as a previous procedure for the acquisition of copyright on their creation. The registration of copyright work is optional, not being up to INPI to promote the requirement for a registration application to a competent body for material protected by copyright. However, a requirement may be made for consistent evidence to be presented that a given element protected by copyright belongs to the person claiming it as a trademark.

Thus, in the case of marks consisting of work protected by copyright, a formal demand should be made that the authorization of the right holder is presented, in view of the exception established in item XVII of art. 124 of the LPI (author or holder's consent).

When the application for registration of a trademark consisting of a work protected by copyright is filed under a co-ownership regime, the appropriate authorization must expressly allow the registration

of the symbol by all applicants for the application, even if the owner of the copyright in question is one of the applicants.

The protection afforded by copyright laws, remains in force for a period of 70 years from the first of January of the year following the death of the author.

Notes

- If third parties in any class, require a drawing that is protected by copyright, created, for example, by Mauricio de Souza or Walt Disney, a formal demand will be made for the applicant to submit authorization from the copyright owner to register it as a trademark;
- In the event of a response to the contrary from the copyright holder, the trade mark application will be rejected;
- The requirement will be waived if it is determined, on the records, that the actual holder of the copyright (or third parties with their consent) is the applicant of the trademark application which contains the copyright-protected work.

Protection of individual titles and character names

The titles protected by copyright must be original and unmistakable, as copyright is not granted, and it is emphasized that protection will be denied if the title of the work is likely to cause confusion or association.

In examination of the mark, consisting of the work title, the following will be observed:

- a) If the name or title of the work, when associated with the goods or services competed for, is immediately associated with an artistic work to which it is entitled, a formal demand will be made in the case of unauthorized third parties. In cases of objection by the copyright holder, the application will be rejected.
- b) If the name or title of the work, submitted in isolation, although spelled in a foreign language, can be confused or associated immediately with the nominated work, a formal demand will be made in the case of unauthorized third parties. In cases of dispute by the copyright holder, the application will be rejected.

- c) If the name or title of the work is not original and unmistakable, the examination of the registration application will proceed, considering their object available in light of the legal provision in item XVII of art. 124 of the LPI, provided there is no possibility of the related work being identified in the claimed goods or services. If this is the case, titles that are formed by words, names or commonly used phrases, depending on goods and services to which they are associated, do not cause any type of memory of, or reference to, the literary, artistic or scientific work.

Character names are not protected by item XVII of art. 124 of the LPI and neither by copyright law, not deserving excessive protection. What is protected is the drawing of the character (by being an artistic work), which is associated or not to its name. However, where the character's name refers only to a work and is likely to cause confusion or association with that, a formal demand will be made for authorization of the copyright holder to be presented, if not the owner or third parties authorized by them.

Examples:

	Registrable by the copyright holder themselves or by others with authorization. Not being the owner and not appearing to have authorization, a formal demand must be made.
MÔNICA	Unregistrable to designate children's magazines, unless requested by the copyright owner or with their authorization. Registrable to designate industrial machinery, as the title of the work (children's magazines) is not original.
SUPERMAN	Unregistrable for any goods or services, in view of the clear association to the character that entitles the work to be protected by copyright.
THE ATHENEUM, THE ALIENIST OR THE POSTHUMOUS MEMOIRS OF BRAS CUBAS	Registrable for a book publisher because it's been 70 years since the death of the authors
THE GIRL FROM IPANEMA	Unregistrable to designate cds, dvds and organizing shows, except with the consent of the copyright holders, since the titles maintain relationship with the goods/services.

ANAKIN SKYWALKER	In cases where the character's name refers only to work and is likely to cause confusion or association to that, the symbol is unregistrable , unless it is requested by the copyright holder or with their authorization.

5.11.17 Specific cases in the examination of distinctiveness

Some types of symbols, either by the frequency with which they are claimed as trademarks or by their very nature, require extra care when assessing their availability. The following are some specific guidelines for assessing the possibility of conflict between some genres of symbols.

Place names

How often a reproduced place name occurs in third-party trademarks ("wear") will be observed, as well as the ideological similarity between the sets in question.

Examples:

Registration	Application under examination	Notes
SÃO PAULO HOTEL to designate hotel services	SÃO PAULO STATE RESORT to designate hotel services	Symbols sufficiently distinct. Despite the marketing affinity and the reproduction of the distinctive expression "SÃO PAULO" there is no conflict between the symbols resulting from the fact that the expression "SÃO PAULO" is included in several trademark symbols in the hospitality and tourism sector trademarks that have distinct sets.
PINDAMONHANGABA UNIVERSITY to designate education services	PINDAMONHANGABA SCHOOL to designate higher education services	Conflicting symbols since the term "PINDAMONHANGABA" is not found in many trademark symbols being part of the set of only one holder.

The same principle used for place names will be applied to the residents (carioca, paulista, mineiro). For those appearing in several trademark symbols, the coexistence will be tolerated, provided that the marks have distinct sets, applying the apostille only to non-registrable terms (never to the residents, which are registrable terms). If the resident is not included in several trademark symbols, the exclusivity for use of the term is that it first must obtain registration and the degree of graphical, aural

and ideological similarity between the sets should be noted, as well as the possibility of undue confusion or association between them.

Patronymic, family name and personal names

In the case of trademarks composed of patronymic, family name and personal names, the right to registration will be granted to the first applicant subject to the conditions noted in item XV of art. 124 of the LPI. Thus, subsequent trademark registration applications consisting of patronymic, family name or identical or similar personal names to trademark identical, similar or related goods or services, will be rejected by the legal standard contained in item XIX of article 124 of the LPI.

In the case of trademarks composed of patronymic, family name and personal names, registration will be granted on a first come, first served basis.

Examples:

Registration	Symbol under examination	Notes
PEREIRA indicating air conditioning repairs	PEREIRA to designate repairs and installation of appliances	Rejection by XIX of art. 124 of the LPI. Although "PEREIRA" is a patronymic of the holder of the request, as a trademark, it encounters a legal impediment in rule in XIX of Art. 124 of the LPI, in that it cannot constitute a trademark due to the interests of the record holder and those of the consumer public.
GOMES indicating non-alcoholic drinks	MACIEL GOMES to designate non-alcoholic beverages	Accepted, since the patronymic association composing the new trademark set creates an impression of a distinct person from the previous registration.
CLARA indicating perfumes	ANA CLARA to designate cosmetics and perfumery	Accepted, since the combination of the two pronouns, creates the impression of a distinct person from the previous registration.

CLAUDIA indicating education services	CLAUDIA! to designate education services	Rejected in light of item XIX of art. 124 of the LPI. Nevertheless "Claudia" is the given name of the holder of the application as a trademark, it encounters a legal impediment in the rule contained in section XIX of art.124 and may not be a trademark in the interests of the first holder of the record and the consuming public.

Acronyms

For the examination marks that are acronyms, the conflict should only be applied in cases of graphic identity, even if there is an opposition claim. However, there are other parameters to be observed:

Registration	Application under examination	Notes
XMTP indicating computers	XMTP to designate notebooks and cds	Rejected in light of item XIX of art. 124 of the LPI. Identical acronyms to designate similar products.
YSL indicating opinion research services	ISL to designate marketing services	Approval. Graphically distinct signs.
ZRP - Zilda Rodrigues Pinto indicating legal services	ZRP - Zacarias Rezende Pereira to designate legal services	Approval. Despite the acronyms being identical graphically and phonetically, the fact that both are broken down in full (with different meanings) prevents confusion.
ZRP Zilda Rodrigues Pinto indicating legal services	ZRP Zacarias Resende Pereira to designate legal services	Rejected in light of item XIX of art. 124 of the LPI. Although both acronyms are broken down differently, the proportion of the acronym (presentation form) in the subsequent application makes the whole trademark liable to confusion with the prior existing one.

ZRP - Zilda Rodrigues Pinto indicating legal services	ZRP to designate legal services	Rejected in light of item XIX of art. 124 of the LPI. The newer sign partially reproduces the previously registered mark.
AATT indicating legal services	AATT - ASSOCIATION OF LABOR LAWYERS to designate legal services	Rejected in light of item XIX of art. 124 of the LPI. The newer sign reproduces the earlier mark by an addition.

5.12 Analysis of opposed applications

An opposition petition is the means by which third parties may submit their opposition to a trademark registration application, with a view to their full or partial rejection in view of infringement of prohibitions provided by law. In response to an opposition, it is an instrument of defense of the applicant's request, of an optional nature, through which they may present arguments against the claims of contesting party.

The analysis of the opposition begins by checking their timeliness, and checking whether it was filed within the statutory period of 60 (sixty) days from the publication of the application. If the petition has been submitted after the deadline, it will not be recognized, in view of the provisions of Part I of Art. 219 of the LPI. If it has been submitted in a timely fashion, the examination continues.

The timeliness of the response to the opposition is also checked, the legal deadline for the opposition protocol expires after 60 (sixty) days from the notification of the opposition in the RPI. Similarly, untimely protests are not recognized due to that which is contained in item I of Art. 219 of the LPI. The timing of the protest being confirmed, it is given due process of examination, with an evaluation of the arguments and documents submitted in the registration and an analysis of search results.

How to request the service	
Service	Opposition
Code	332
Additional information	3.6.2 Opposition petitions, administrative nullity and expiry proceedings, Table of Fees

It should be noted that the amount for the opposition service will be calculated based on the number of classes being challenged. In this regard, demands may be made to supplement the due remuneration.

5.12.1 General guidelines for examination of applications with opposition

Petition with characteristics of an opposition filed after the legal deadline

Petitions containing arguments and characteristic opposition claims that have been filed after the deadline set forth in the caput of art 158 of the LPI will not be recognized in view of the provisions of item I of Art. 219 of the same law:

Art. 219 - petitions, oppositions and appeals will not be heard when:

I - submitted after the deadline prescribed by this law;

If the petition has been filed within that time period, the actual payment of the fee regarding the opposition service will be checked, if necessary requiring a formal demand to be made for a supplementary fee in the case of underpayment.

Requirements for the opposing party

It is up to contesting party to present their arguments in a clear and objective way, proving their claims with the appropriate documentation. Thus, the principle of formal demands for the submission of additional evidence or for clarification of argumentative differences, will not be made.

If the allegations made refer to a case other than that being examined, it will be checked as to whether the opposing party has requested, via petition, the correction of that error. If there is no correction request on the records, the opposition will be dismissed since the contested application differs from that for which the opposition was filed.

It is worth noting that there are requirements on formal matters, such as an illegible power of attorney, incomplete information or

that which contains discrepancies, for the purpose of streamlining the process.

Search in examination for requests with opposition

The search for previous registrations in a process with opposition may consider conflicts in related market classes, in order to determine the arguments brought before the court by the contesting party and by the opponent, especially in cases of alleged infringement of section XIX of art. 124 of the LPI.

Withdrawal of the unregistrable part of the trademark

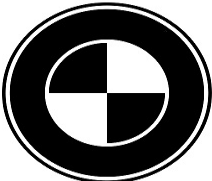
According to the INPI/PROC Opinion No 48/03, if the applicant, in their defense, requests the withdrawal of the term or unregistrable element of symbol in question, the possibility of changing the sign will be permitted if the following conditions are met:

- a) The withdrawal of the unregistrable element should not change the main characteristics of the sign originally required or give rise to the need to republish the application: and
- b) The resulting signal should consist solely of the remaining elements of the mark originally requested, the addition or substitution of figurative or nominative elements, and any change that alters the meaning of an expression or image is not allowed.

It is worth noting that the changes will be accepted only when requested by the user and may not include the addition of figurative or nominative elements. Upon the withdrawal of the unregistrable element being promoted, the subsisting sign will be analyzed in light of the other prohibitions laid down in law.

Examples:

Original mark	Mark changed by request of the applicant	Observations
PÉ-DE-MOLEQUE	FOOT	The change cannot be accepted, since the removal of the phrase "DE-MOLEQUE" altered the main distinguishing feature of the required sign by modifying its meaning.

		Change will be accepted. The subsisting sign will be analyzed in light of other legal prohibitions
		Change will be accepted. The subsisting sign will be analyzed in light of other legal prohibitions.
		Change will be accepted. However, the sign will be rejected in view of the infringement of item II of art. 124 of the LPI.
		The change cannot be accepted, since the replacement of the figurative element modifies the main distinctive feature of the sign applied for.

5.12.2 Opposition based on unfair competition

Repression of unfair competition is referred to in item V of art. 2 of the LPI and art. 10a of the CUP, transcribed below:

Law No. 9,279, of 14/05/1996 - LPI

"Article 2 - The protection of rights relating to industrial property, considering their social interest and the technological and economic development of the country, executed upon:

(...)

V - the repression of unfair competition".

Paris Union Convention - CUP

"Art. 10a

- 1) Union Countries undertake to assure to nationals of countries of the Union, effective protection against unfair competition.
- 2) Unfair competition is any act of competition contrary to honest practices in industrial or commercial matters".

These rules have the role of legal principles applying sustainability of specific legal provisions that deal with the unregistrability of signs as a mark, namely those listed in Articles 124, 125 and 126 of the LPI. Thus, according to the guidelines of INPI/PROC/DIRAD Regulatory Opinion No. 20/08, of arts. 2, item V,

of the LPI and 10a of the CUP, referring to the repression of unfair competition, are not singled out as a reason for refusal of trademark registration applications.

5.12.3 Opposition based on art. 125 of the LPI

With the entry into force of Resolution INPI/PR n° 107/2013, as from 10/03/2014, recognition of highly renowned trademarks is now required by specific application, which constitutes an autonomous step, and not as a matter of defense through challenge. Thus, "Opposition based on high reputation" and "Administrative nullification of trademark registration on the basis of high repute" services no longer exist.

Thus, for a holder to make a claim under Art. 125 of the LPI in an opposition or administrative nullity, they must already have a high reputation of their existing mark recognized with the INPI or having already petitioned to request recognition of that status.

5.12.4 Opposition based on art. 126 of the LPI

Article 126 of the LPI and 6 bis of CUP contain the exception to the principle of territoriality, stating that:

Law No. 9,279, of 14/05/96 - LPI

Article 126. - A well-known mark in its field of activity under Art. 6a (1) of the Paris Union Convention for Protection of Industrial Property will enjoy special protection, regardless of previously being filed or registered in Brazil".

Paris Union Convention - CUP

Art. 6 bis

The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a trademark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the trademark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith.

Given that the Convention of the Paris Union does not give any definition of notoriety, neither establishes criteria for its examination, the INPI, as competent authority to deal with matters of this nature, will consider the question, observing whether the trademark has a certain level of recognition in Brazil in identical or similar market segments.

In application of the rule by means of any challenge, it will be checked whether the contesting party:

- a) Is a national resident or is domiciled in a contracting State of the Paris Union Convention;
- b) Has *locus standi* to challenge;
- c) their application is based on, and is accompanied by sufficient evidence to characterize the trademark awareness in the same or similar market segment.

These guidelines are also observed in the case of service marks, since, although the standard of the CUP does not include such trademarks, Brazilian law recognizes that they are also likely to have notoriety and recognition, and are entitled to protection beyond the territorial limit (Art. 126, § 1 of the LPI).

However, for challenges to be recognized on based on the legal regulation of Art. 6a of the CUP, the provisions of § 2 of art. 158 of the LPI observe the following:

"§ 2 Oppositions, administrative nullity or annulment actions will not be heard if, based on item XXIII of Art. 124 or Art. 126, the filing of the trademark registration application pursuant to this Law is not proven within a period of sixty (60) days from the interposition".

During the examination, the opposing party will be verified to determine whether the opposing party has met the aforementioned legal requirement. If the disputed trademark is not filed within the aforementioned period, the claims based on art. 126 of the LPI will not be considered.

Due to the provisions of the sole paragraph of Article 50 of INPI Ordinance No. 8/2022, when the disputed trademark is registered abroad in the name of more than one co-owner, proof of filing with the INPI in the name of all co-owners must be provided for the

claims based on art. 126 of the LPI to be considered. However, the opposition may be filed by only one of the co-owners of the trademark previously registered abroad.

5.12.5 Opposition based on item V of art. 124 of the LPI

Item V of art. 124 of the LPI, establishes that which is not registrable as a trademark:

"Reproduction or imitation of a characteristic or differentiating element of a title of establishment or name of third-party company, likely to cause confusion or association with such distinctive symbols".

The title of establishment or company name, as such, is not eligible for registration as a trademark. However, the fantasy elements contained in the body of the titles of the business or company names may be registered as a trademark, provided that they are subject to the validity of the registration conditions imposed by law.

As noted in 5.11.8 characteristic or differentiating element of a title of establishment and observing the guidelines of the Regulatory AGU/PGF/PEF/INPI/COOPI Opinion No 05/2012, when examining the possibility of confusion or association between the trademark sign and business name, the following shall be observed:

- a) Whether the integral element of the title of establishment or company name is distinctive;
- b) Whether the symbol under analysis meets the conditions of distinctiveness, lawfulness and truthfulness;
- c) Whether the similarity between the sets in question is capable of generating confusion or undue association;
- d) Whether the activities performed by the contesting company constitute marketing affinity with the goods and/or services the trademark symbol is intended to highlight; and
- e) If the registration of the business name predates the submission/registration of the trademark.

It is worth noting that no requirement will be made to prove the date of incorporation of the company or title of establishment, as it is up to the challenger to present evidence of the allegation at the time of the challenge.

If the goods or services designated in the contested trademark application should not correspond, unequivocally, with the main contesting activity, INPI may issue formal demands for that which proves the effective exercise of the activity in question.

Claims submitted under art. 124, Part V, of the LPI will be considered valid when at least one of the opposing parties holds the right to the business name in question. Similarly, arguments against the opposition, based on the same provision, will also be considered valid when at least one of the applicants of the application under challenge holds the right to the business name in question.

Companies with the same business name

In cases where the trademark symbol in dispute is present in the business name of both companies, the right to registration and use of the trademark belongs to the first party that files an application with INPI, regardless of the date of incorporation of the legal entity. However, if the opposing party's previous application or registration is archived or extinguished, the claims based on part V of arts. 124 of the LPI will be considered unfounded, since the right claimed with the INPI is not consolidated.

The possibility of proving prior use by the parties must also be observed, pursuant to item 1 of art. 129 of the LPI. It is worth noting that, if the claims based on the opposing party's prior use of the trademark are found to be valid, the registration application will be denied based on item V of art. 124 and § 1 of art. 129 of the LPI.

Foreign Companies

Regarding the company name, another positive standard also regulates their protection, deviating from the principle of territoriality, and dispenses with formal registration in Brazil. The following is art. 8 of the CUP, which prescribes:

"Art. 8. A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not it forms part of a trademark."

In the case of foreign contesting parties, in addition to the procedures mentioned above, it is necessary that they prove their operations in the domestic market through imports, media advertising, or any other means of evidence admissible in law, in

order to characterize the possibility of confusion or association between the distinctive symbols.

5.12.6 Opposition based on §1 of art. 129 of the LPI

The exception to the attributive principle of the right to symbols is good faith users who prove previous use, for at least 6 months, of a mark that is identical or similar to the point of causing confusion or undue association for the same purpose, in the terms of § 1 of Art. 129 LPI:

Art. 129 (...)

§ 1. Any person who, in good faith, on the priority date or the filing date of the application, was using in Brazil, for at least six (6) months, an identical or similar trademark to distinguish or certify identical, similar or related goods or services shall enjoy a right of precedence in registration.

Thus, the person who, in good faith, used in the country for at least six (6) months, an identical or similar mark for identical or similar purposes, can claim the right of precedence to the registration, and to this end:

- a) Substantiate your claim in opposition to the registration application filed by third parties, attaching sufficient evidence to establish use in the country, in accordance with the provisions of § 1 of Art. 129 of the LPI;
- b) Provide evidence of the filing of the trademark registration application in accordance with the LPI.

Claims filed under Art. 129, §1, of the LPI will be considered valid when at least one of the opposing parties proves prior use of the requested trademark. Similarly, arguments against the opposition, based on the same provision, will also be considered valid when at least one of the applicants of the application under challenge proves prior use of the requested trademark.

Due to the provisions of the sole paragraph of Article 50 of INPI Ordinance No. 8/2022, proof must be provided that the disputed trademark was filed with the INPI in the name of all joint owners for the claims based on Art. 129, §1, of the LPI to be acknowledged. However, the opposition may be filed by only one of the holders of the alleged right.

If both parties prove pre-use of the requested trademark sign, for at least 6 (six) months before the filing date and/or priority claimed, the right to register the trademark will belong to the one who first files the application with the INPI, regardless of who has been using it for the longest time.

Period of Issuance or Publication of Evidence

For purposes of proving the provisions of Art. 129, § 1, of the LPI, the evidence presented by the opposing party must demonstrate continued use of the sign for at least six months from the priority date or filing of the trademark application under challenge, under penalty of dismissing the allegations based on said legal provision. Additionally, only documents issued or published within five years prior to the priority date or filing of the trademark application under opposition will be considered valid to prove the right of precedence to registration.

Proof of prior use of the symbol only for a period of less than six months and/or more than five years from the filing or priority date of the application under challenge will not be used to prove the right of precedence and will not be considered for the purposes of applying the aforementioned legal provision.

Characterizing the User's Good Faith

Only previous users who have never filed with the INPI to register the disputed symbol are considered good faith users. Therefore, if the objecting party has already had an application filed or registration revoked, the claims based on Art. 129, § 1, of the LPI will be considered unfounded, even if the opposition was accompanied by supporting documentation of previous use.

5.13 Analysis of Three-Dimensional and Position Trademark Applications

A three-dimensional trademark refers solely to the plastic form of an object used to identify goods or services.

A position mark is the presentation method used to seek protection for a set of symbols applied to a specific medium, in a unique and specific position, capable of distinguishing goods or services from other identical, similar or related goods or services.

Three-dimensional and position marks are included in the list of "non-traditional" signs. The examination of these marks will comply, where applicable, with all the registration standards and guidelines applicable to other trademarks, such as overall perception, compliance with legal prohibitions, and searches for the elements that comprise them.

5.13.1 Three-dimensional trademark

In accordance with item XXI of Art. 124 of the LPI, the following are not registerable as trademarks:

"a necessary, common or vulgar product form, its packaging or market preparation, or even one that cannot be disassociated from a technical effect".

This item deals primarily with three-dimensional marks not registrable as a trademark. This legal provision, infers that all plastic form objects that are neither necessary nor commonly used in your industry, or are essentially linked to a technical function will be registrable as a trademark.

Therefore, the three-dimensional symbols will only be eligible for registration as constituted by the particular nonfunctional and unusual product form or its packaging or service for which it is intended.

For the purpose of this legal standard, the following definitions shall be considered:

- a) **Plastic form:** the object in its three-dimensional format, as well as its configuration/physical form.
- b) **Required form of the product or packaging:** that of the actual nature of the object, without which it is impossible to produce it.

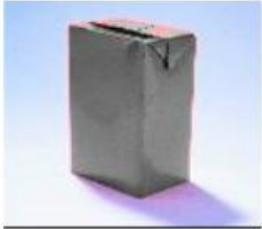
Examples:

 to designate a soccer ball	Unregistrable, since the spherical shape is necessary.

 to designate tires	Unregistrable, since the circular shape is necessary.

c) **Common or ordinary shape of the product or packaging:** one that, although not inherent to the product or its packaging, at the time of filing is already habitually used by various manufacturers in their respective market segments.

Examples:

 to designate bottles	Unregistrable, since the cylindrical shape of the PET bottles is common for the packaging of beverages.
 to designate cartons for food and beverages	Unregistrable, since the box shape is common for packaging dairy products and other foods.

d) **Form that cannot be dissociated from technical effect:** That which is intrinsically related to a technical function, dictated by it, indispensable to the functioning of the object or assist the performance.

Examples :

 to distinguish toys	Unregistrable, because the pins are essential to the performance of the function for which the toy is proposed.
 to designate cleaning products	Unregistrable, since the spray nozzle is essential to the functioning of the product, while the dimples help neck performance, providing a better hand fit.

Therefore, it will be possible to register the plastic form of the object that has a distinctive character in order to identify a product for the consumer, distinguishing it from its competitors, even if it does not constitute the form of the product itself or its packaging/wrapping and provided that it is disassociated with a technical effect. That is, the entire distinctive plastic form can identify products and should not necessarily "be" itself nor its packaging.

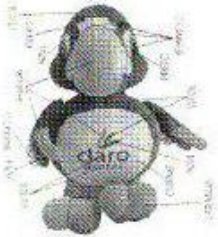
Examples :

 to distinguish soaps	Registrable
 to designate chocolate	Registrable

 to designate glasses or articles of clothing	Registrable

A plastic form that has a sufficiently distinctive imprint to identify a service with the consumer, individualizing the front from its competitors, and if it can dissociate itself from a technical effect, will also be considered eligible for registration.

Examples: characters, totems, building or stand formats.

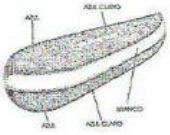
 to designate financial and real estate services	Registrable
 to designate telecommunications services	Registrable

It follows then, that a three-dimensional sign will only be registrable as a trademark when it consists of a unique, unusual and not strictly functional plastic form of the product/packaging or service for which it is intended.

Note that the examination of a three-dimensional mark assesses primarily whether the object in question has potentially distinctive plastic form, meeting physical characteristics that make it able to be recognized by the consumer and for being associated with the goods or services designated - regardless of the symbol already being in use in the market.

Examination of the three-dimensional mark shall comply with the stability of form principle. In other words, symbols relating to objects whose physical constitution does not have a minimum of firmness and stability, being composed of easily deformed material, will not be eligible for registration.

Examples:

 to designate toothpaste	Unregistrable, since the object does not have stable shape, presenting extremely soft and pasty consistency. A toothpaste will take on a different plastic form each time it is pressed out of the tube in which it is packaged.

At the time of examination of the three-dimensional mark the following rules shall apply:

- a) Whether the claimed three-dimensional shape presents certain configurative characteristics capable of allowing their recognition or identification as goods or services, so that you can relate it to a producer or a particular service provider, distinguishing it from the others, of diverse origins, thus fulfilling its role in the market, that will identify goods or services;
- b) Whether the claimed three-dimensional shape covers the distinctiveness requirement for goods and services to which it applies;
- c) Whether the claimed three-dimensional form, is not a necessary, common or usual product, its packaging or market preparation to which it applies, or one that cannot be dissociated from the technical effect, relative to goods and services;
- d) If the claimed three-dimensional form does not affect other legal prohibitions (e.g. bottles in the form of monuments or that which offends morals);
- e) If there are other elements of the symbol that fall under some legal prohibition, such as, for example, a verbal part that reproduces or imitates a third-party registered trademark that aims to identify identical, similar or related goods or services, and is likely to cause confusion or undue association on the part of the consumer, in which case the application for a three-

dimensional trademark will be rejected under item XIX of art. 124 of the LPI; and

f) If the claimed three-dimensional shape is stable.

As in the examination of traditional marks, the analysis of three-dimensional marks will be made on the entire set - in this case on the entire plastic form of the examined object, as presented to the market, not on parts of it.

Examples:

 To designate perfumes	A flask lid, not claimed on its own Only the flask as a whole, of which the lid is just one part, will be considered eligible for analysis as a three-dimensional mark.

Information on specifying three-dimensional trademark applications can be found in section 5.4.8 Specifying three-dimensional trademark applications.

Elements that do not confer distinctiveness to the three-dimensional symbol

a) Colors, images and labels affixed to the object: a three-dimensional mark analysis always depends on the plastic form of the object under examination, it being essential that its format features some peculiar characteristics in relation to common form. Therefore, nominative or figurative elements applied by printing on the surface of the three-dimensional object - images, labels or color information - will not be considered as factors able to give it distinctive nature, since it does not interfere with its plastic form.

b) Reliefs: Three-dimensional marks, the surface of which contain figurative elements in relief, (drawings, patterns or textures), will have their distinctive imprint assessed on a case by case

basis, to the extent that such elements may, when conforming to its uniqueness and intensity, significantly interfere with the analysis of the plastic form of the object or not.

c) Hidden or those not immediately obvious elements : Details of the trademark that cannot be perceived/observed and, therefore, identified by the consumer will not be considered as distinctive aspects, and do not interfere with the act of acquiring the designated goods or services.

5.13.2 Position mark

Under the terms of art. 84 of INPI/PR Ordinance No. 8/2022, a position mark is considered to be one formed by the application of a symbol in a singular and specific position on a given support, resulting in a distinctive set capable of identifying goods or services and distinguishing them from other identical, similar or related goods, provided that the application of the symbol in said position on the support can be dissociated from any technical or functional effect.

The uniqueness of the position refers to it being peculiar to the support, not being a position traditionally used for the application of trademarks.

The specificity of the position refers to the positioning of the symbol on the support and the proportion of the symbol applied in relation to the support, so that it is possible to evaluate how much of the support the symbol in question occupies.

The symbol applied to the support may be composed of any visually perceptible elements or their combinations, such as: words, letters, numbers, ideograms, symbols, drawings, images, figures, colors, patterns and shapes, as long as they are not included in the legal prohibitions.

The position mark will also be subject to analysis regarding all other legal prohibitions, even if not expressly exemplified in this Manual.

Limits of protection

The protection conferred by position mark registration refers to the entirety formed by the application of the symbol in the singular and specific position of the support. The position of the support in which the symbol is applied is not protected in isolation. Registration also does not confer protection on the support itself.

Graphic representation and description of the brand

The main image attached to the position mark registration application must show the support, representing the exact positioning and proportion of the applied symbol. If the applicant deems it necessary, other images of different views of the support may be attached to the application to provide a sufficient understanding of the intended position mark protection.

The support should be represented by dotted or dashed lines. The symbol applied to the support, in turn, should be indicated by solid lines or filled areas.

A textual description of the trademark must be presented in order to delimit the protection claimed, informing what is effectively intended to be protected through the application for registration of the position mark, namely:

- a) textual description of the support, represented in dotted or dashed lines;
- b) clear textual description of the symbol applied to the support, represented in continuous lines or in filled areas;
- c) textual definition of the positioning and proportion of the symbol in relation to the support;
- d) in the case of a claim for colors or their combinations, the definition of these colors in the elements that make up the symbol applied to the support; and
- e) other information that the applicant deems necessary for the correct delimitation of the protection claimed.

In cases where the limit of the protection claimed is not sufficiently precise, due to a lack of clarity in the image or description of the mark, or due to a discrepancy between them, requirements will be formulated for the applicant to make the necessary corrections or provide clarifications.

Adequacy in terms of presentation form

In applications filed as a combined, figurative, or three-dimensional trademark, if there is evidence that the position mark is the appropriate presentation format, such as the use of dashed lines to represent the medium, or if the filing states that this is the appropriate presentation format, the applicant will be required to state whether they agree to the change in the application's presentation format. Applicants who agree to the change in presentation format must attach a description of the trademark, the appropriate main image, and other views of the medium, as set forth in the **Graphic Representation and Description of the Mark section** of this item. If the applicant disagrees with the change in presentation format, they must state this disagreement in response to the requirement, and the examination will proceed using the presentation format initially requested.

If the trademark's presentation format is changed, the registration application will be republished to allow the period for third-party opposition to be filed. After the deadlines set forth in Article 158 of the LPI have elapsed, the application will be examined, without prejudice to the analysis of previously filed oppositions.

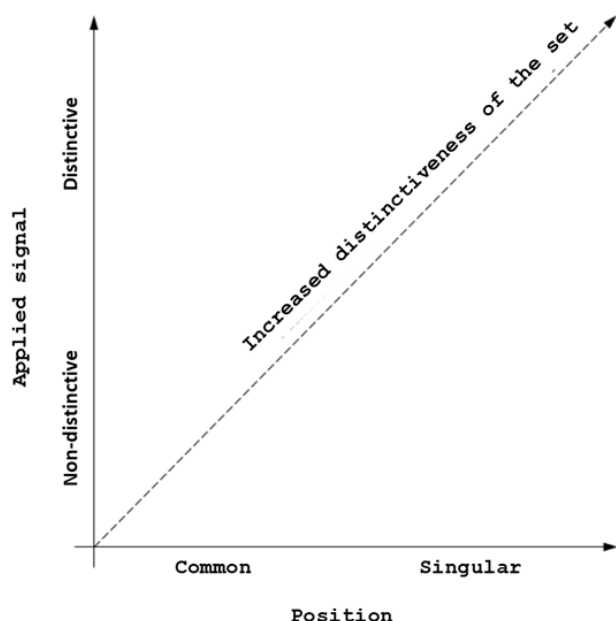
Distinctiveness analysis

For the position mark to meet the distinctiveness requirement, the application of the symbol to the support must result in a distinctive set, being perceived as a mark.

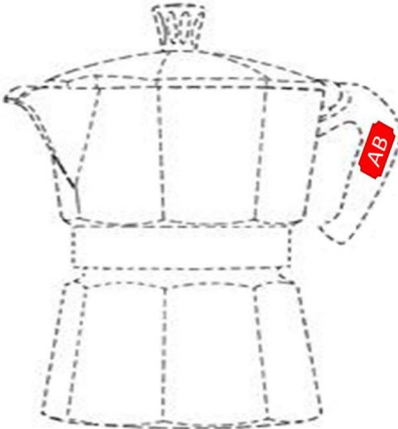
The examination of a position mark primarily assesses whether the set resulting from the application of a trademark symbol on a given support has distinctive potential, bringing together characteristics (uniqueness of the position and distinctiveness of the symbol) that make it capable of being recognized by the consumer and associated with the good or service it identifies, regardless of whether the symbol is already in use on the market.

When assessing distinctiveness, the more unique the position in which the symbol is applied, the greater the distinctiveness of the whole. Likewise, the more distinctive the symbol applied, the greater the distinctive effectiveness of the position mark. The following figure illustrates the increase in the degree of distinctiveness of the position mark as a function of the

distinctive nature of the symbol and the uniqueness of the position in which it is applied.

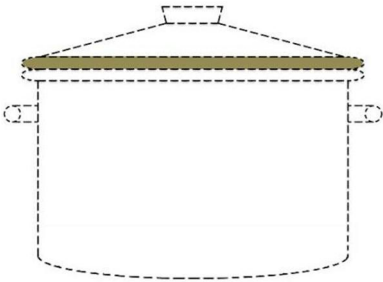
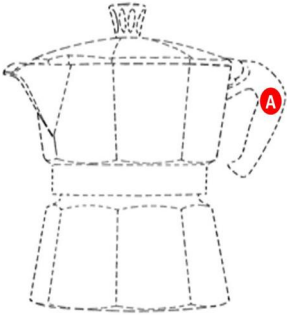


Examples:

Mark	Registrability
 To mark "Coffee Makers".	Registrable . The coffee maker handle is not a commonly used position for applying marks. Furthermore, the applied symbol is sufficiently distinctive, being perceived as a brand and not as an ornamental element.

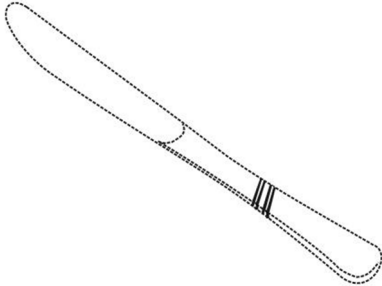
The application of a non-distinctive symbol to a support will not be registrable as a position mark . In these cases, the application will be denied based on art. 122 of the LPI combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022 and the legal provision regarding the lack of distinctiveness of the applied symbol.

Examples:

Mark	Observations
 To mark "Pots".	Unregistrable in light of articles 122 and 124, VIII, of the LPI, combined with the sole paragraph of art. 8 of INPI/PR Ordinance No. 8/2022. The application of color to the edge of the pan lid does not result in a peculiar or distinctive arrangement in the set deposited as a position mark.
 To mark "Coffee Makers".	Unregistrable in light of articles 122 and 124, II, of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The applied symbol is composed of an isolated letter that does not contain any other element that gives a distinctive character to the set deposited as a position mark.

The application of a symbol that is perceived as a merely or evidently ornamental aspect or as part of the common appearance of the support and that results in a set lacking sufficient distinctiveness will not be registrable as a position mark. In these cases, the application will be rejected based on art. 122 of the LPI combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022.

Examples:

Mark	Observations
 To mark "Knives".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. Details such as small friezes and bands are commonly used in the production of cutlery, and are perceived as mere ornaments, not giving a distinctive character to the set deposited as a mark of position.

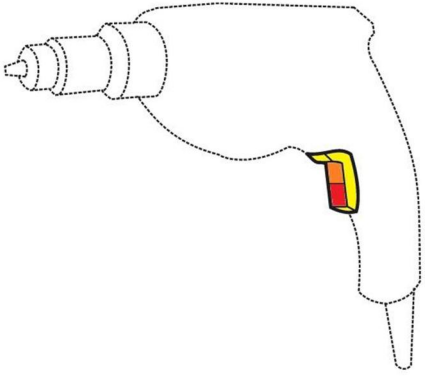
A symbol that, applied to the support, results in an inseparable set of technical effects:

The position mark will be non-registrable when the application of the symbol in a specific area of the support has a predominantly technical or functional nature, with the aim of, among others:

- a) facilitate the use of the support or assist its performance;
- b) hide support details, aiming for a better aesthetic result;
- c) highlight important parts of the support to indicate its safe use; or
- d) obtain any other aesthetic or technical result incompatible with the role of identifying goods or services and distinguishing them from other identical, similar or related products.

If the technical or functional nature resulting from the application of the symbol in a certain position on the support is verified, the application will be rejected based on art. 122 of the LPI combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022.

Example:

Mark	Observations
 To mark " Drills ".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The color combination applied aims to designate the location of the drill's activation button, making it easier for the user to use the object. The application of the symbol in this specific area of the support results in a set that has a predominantly technical or functional character. The position signal cannot be dissociated from the technical effect.

Application of symbol in common or non-singular position:

A position mark will not be registrable when the position in which the symbol is applied is not singular, that is, it is commonly used for the affixing of trademarks, considering the good or service requested. In such cases, the application will be rejected based on art. 122 of the LPI combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022.

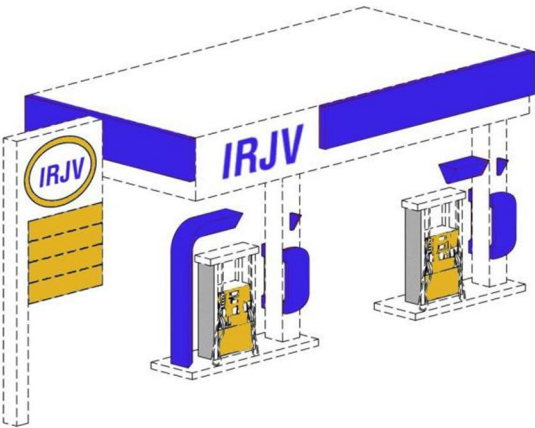
Example :

Mark	Registrability
 To mark " Shirts ".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The position in which the symbol was applied is commonly used to apply brands to shirts and t-shirts. The proportion of the signal in relation to the dimensions of the product is also already established in the market in question.

Impossibility of identifying a specific position:

A set of marks formed by the application of one or more symbols in different positions on a support will not be registrable as a position mark. In these cases, it is not possible to identify the specific position in which the symbol is applied. Requirements will be formulated for the applicant to re-present the mark's image with the necessary adjustments or provide clarifications. If the formulation of requirements is not feasible or their fulfillment is not satisfactory, the application will be rejected based on art. 122 of the LPI in conjunction with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022.

Example :

Mark	Observations
 To mark "Fuel trade".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The set consists of the application of a company's visual identity in a commercial establishment, composed of the application of several symbols in more than one position of the support, not being possible to identify the specific position in which the symbols are applied. The set is non-registrable in the form of a "position mark" presentation.

 To mark Shirts".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The position in which the symbol was applied is commonly used to apply brands to shirts and t-shirts. The proportion of the signal in relation to the dimensions of the product is also already established in the market in question.

A position mark will not be registrable if the symbol is applied to a proportion of the support that makes it impossible to identify the specific position in which the symbol is applied. Requirements will be formulated for the applicant to re-present the trademark image with the necessary adjustments or provide clarifications. If the formulation of requirements is not feasible or their fulfillment is not satisfactory, the application will be rejected based on art. 122 of the LPI combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022.

Example:

Mark	Observations
 To mark " Air transport service ".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The set consists of the application of an airline's visual identity on an aircraft, composed of the application of a symbol in a proportion that makes it impossible to identify a specific position. The set is non-registrable in the form of a "position mark" presentation.

 To mark Milk Drink ".	Unregistrable in light of art. 122 of the LPI, combined with the sole paragraph of art. 84 of INPI/PR Ordinance No. 8/2022. The set consists of the application of visual identity to a package, composed of the application of a symbol in a proportion that makes it impossible to identify a specific position. The set is non-registrable in the form of a "position mark" presentation.

Availability analysis

The analysis of the collision between position marks will be based on the assessment of the general impression of the sets formed by the symbol and its position on the support, and not only on its individual elements, taking into account the degree of distinctiveness of the symbol and the uniqueness of the position in which it is applied.

The analysis of the collision between position marks and marks in other forms of presentation will be carried out in accordance with the provisions of items 5.11 Analysis of the trademark availability requirement, 5.16 Searches and other references and 5.17 Coexistence between marks.

5.14 analysis of collective trademark applications

Art. 123 of the LPI considers a collective mark to be "that which is used to identify goods or services of members of a particular entity".

Thus, the collective mark is a symbol that aims to identify products or services provided by members of a particular collective (association, union, cooperative, fraternal organization or other group organized collectively), distinguishing them from other identical or similar goods or services from other sources that are not members of the same community.

Thus, it should be noted that although the registration of a collective mark must be held by a representative entity of a collective, this mark will be used by its members, as an indication

of association with this collective entity, unlike trademarks of goods or services that individually distinguish their origins.

The application for a collective mark is analyzed observing the conditions expressed in the arts. 147 and 149 of the LPI, which establishes that notice must be taken of the judicial regulations governing use of the mark, providing for the conditions of use and prohibitions of use of the symbol. Any changes in the regulations of use must be communicated to INPI through the petition protocol containing the changes made, otherwise such a change will not be considered.

The examination checks whether the submitted document includes all of this information, requiring the issue of formal demands in appropriate cases, to be answered within 60 (sixty) calendar days from the date of its publication. In case of non-compliance with the formal demand, the application will be definitively shelved. If a formal demand is complied with, but does not resolve an issue or its formulation is contested, the examination will be monitored with respect to the regulations governing use.

5.14.1 Collective Mark Examination

The examination of the registrability of a collective mark is no different from the examination for the registrability of a trademark for goods or services and encompasses the same conditions and attributes that would be required for a registration of this nature. The provisions of art. 154 of the LPI should however, be noted:

"A collective mark and certification which have already been used and whose records have become extinct may not be registered in the name of a third party, before the expiry of five (5) years from the extinction of the record".

Therefore, the occurrence of impeding previous rights under the conditions mentioned above will result in the rejection of the collective trademark registration application based on art. 124, part XII, of the LPI, which regulates:

"Reproductions or imitations of signs that have been registered as a collective mark or certification by a third party, are not registrable as marks, subject to the provisions of art. 154."

It should be noted also that any conflict raised, involving collective marks will be in accordance with the principle of specialty, removing the possibility of erroneous association, between trademarks that aim to designate goods/services from different market segments, with each other.

Applicant of the collective mark application

According to the definition of this type of mark and in accordance with the provisions of § 2 of art. 128 of the LPI, the application for collective trademark registration must be filed by a legal entity representing the collective, which may exercise an activity different from that of its members. To determine compliance with the aforementioned legal provision, the evidence presented in the stated corporate purpose or set of articles of association attached to the file, will be considered in order to verify that the requesting entity of the collective trademark registration can be characterized as a representative entity or whether it is comprised of associates/participants.

The existence of fees or association maintenance fees, issuance of associated certificates, conditions of association and indication of periodic meetings between members are elements that can be brought in support of the legitimacy of the application for a collective trademark registration by the applicant. If the information contained in the records is not sufficient to resolve any doubts regarding the nature of the application for collective trademark registration by the applicant, additional elements may be required for conclusive analysis.

It is worth mentioning that, although distinct, the activity of the applicant must hold affinity with the activity of members of the community, as well as the goods or services that it aims to designate.

Regulations for the use of a collective mark

The collective trademark registration application must be accompanied by the regulations governing use of the mark, in accordance with the provisions of art. 147 of the LPI and Chapter XIV of INPI Ordinance No. 08/2022. If the Regulation does not accompany the application, it should be filed within sixty (60) days of the filing of the mark, under penalty of definitive shelving

of the application in accordance with the provisions of the sole paragraph of that article.

The regulation submitted by the applicant must contain the following items, under penalty of a formal demand being made for possible correction or clarification:

- a) description of the collective entity applicant, indicating their classification, corporate purpose, address and individuals or entities authorized to represent them;
- b) conditions for eventual withdrawal of the registration application or waiver of registration of the trademark (partial or total), if the same is not provided for in the articles of incorporation, in compliance with art. 152 of the LPI;
- c) persons, (natural or legal), permitted to use the sign in question, must be described regarding any requirements or conditions for the use of the sign;
- d) conditions for use of the sign, if they exist. In the case of a lack of detail regarding the conditions of use of the sign, it is understood that the conditions applicable are limited to those established by the legislation;
- e) Applicable sanctions in the case of inappropriate use of the sign, if they exist. If the applicant does not detail the definition of improper use, this will be perceived as use of the collective mark in manner contrary to the conditions set forth in item "d".

Any other general provisions can be added by the applicant or proprietor, if they wish it. It should be noted that if the regulation of use refers to any document relevant to the applicability of the content of this regulation, the document shall be included as an attachment, under penalty of a formal demand being made to adapt to this rule.

It should be noted that, in accordance with the provisions of art. 149 of the LPI, the changes in the regulations of use must be communicated to INPI by petition describing such changes, otherwise they will not be considered.

The regulations containing the changes will be analyzed according to the foregoing, subject to formulation requirements for suitability of such restrictions. Unfulfilled requirements with

respect to the suitability of a regulation will involve the archiving of the registration application if it does not have an adequate regulation on file, or the submission of a petition to amend the regulation on file, if any, using the proper format shown above.

If amendments to the regulations governing use are in accordance with the provisions above, the amendment will be accepted, being promulgated through an appropriate dispatch in the RPI.

5.15 Analysis of trademark certification applications

An application for registration of a certification mark is analyzed observing the conditions expressed in art. 148 of the LPI:

Art. 148 - The application for registration of a certification mark shall contain:

- I - characteristics of goods and services being certified, and
- II - control measures to be adopted by the holder.

Thus, the applicant of certification mark application must submit documentation containing:

- **The characteristics of goods and services** to be certified stating the description of goods and services regarding the quality, nature, material used, production procedures or service provision, among others, that the applicant considers significant. If there is specific legislation, regulation or technical specification that is available for goods and services to be certified, it must be attached to the process.
- **Control measures** which the trademark owner uses to certify goods and services to be certified, as well as sanctions to be applied in the case of misuse of the mark.

It is noteworthy that such documentation must accompany the application upon its submission or be filed within 60 (sixty) days after the filing of the same, under penalty of the application being archived. It is important to note that the certification mark applicant may not engage in activity that holds a commercial or industrial relationship with goods and services object of the certification.

Examination of the certification mark registration application will be based on meeting these conditions. The examination verifies

whether the submitted document includes all of this information, requiring the formulation of formal demands in appropriate cases, to be responded to within 60 (sixty) calendar days. In case of non-compliance with the formal demand, the application will be definitively shelved. If a formal demand is complied with, but does not resolve an issue or its formulation is contested, the examination will be continued.

5.16 Searches and Other References

Search for previous registrations

During the search for previous inhibitive registrations, alternatives offered by computerized systems will be used, exploring the possibilities and combinations of letters, phonetic similarities, paying attention to any potential ideological conflicts.

It is noteworthy that, as determined by Article 26 of INPI Ordinance No. 8/2022, the search for previous registrations will be limited exclusively to the class claimed in the application in question, except in cases of correspondence between classes belonging to different classification systems.

According to INPI/CPAPD Technical Note No. 02/2017, in the examination of unopposed trademark applications that return from suspension, the previous registration from another class will be considered, provided the following conditions are met:

- a) If the previous registration from another class has been identified in an opposition or administrative nullity proceeding in the suspension application and is considered an impediment to registration of the symbol under review;
- b) If the symbol under review effectively reproduces or imitates the aforementioned previous registration and aims to distinguish or certify identical, similar, or related goods or services, in a way that is likely to cause confusion or undue association.

If the symbol meets both conditions, it must be rejected under part XIX of art. 124 of the LPI, for reproducing or imitating a third party's previous symbol. This procedure constitutes an exception to the provisions of art. 26 of INPI Ordinance No. 8/2022.

Specific instructions for searches in the case of applications with opposition can be found in section 5.12.1 General guidelines for examination of applications with opposition.

Searching the Internet

The internet is another valuable source of input to the examination of trademark of applications and can settle doubts or reinforce understanding. However, it is necessary to always observe the relevance and reliability of the information obtained by this means, since many results provide erroneous data and can be misleading.

Searching in Dictionaries

In the case of a symbol in a foreign language, its meaning will be taken into account in the analysis of its registrability. Especially in cases of refusal, the level of knowledge of the average consumer of the goods or services that the sign aims to distinguish is taken into account. It is important to note that this recommendation is valid only for languages in common use and known to the public that the mark is intended for.

5.16.1 Specific cases in the search for prior art

During searches carried out in the claimed classes, multi-class prior rights may be found that indicate, in a different class, goods or services similar to those specified in the application under analysis. In these cases, such prior rights will be considered an impediment to the registration of the trademark under examination in the classes that present similar or related goods or services.

Examples:

Registration	Order in exam	Observations
PAGGU Multiclass Registration noting: Class 25: Clothing Class 35: Advertising	PAGU to mark: Class 35: Trade in clothing articles Class 36: Financial services	Rejection in relation to class 35, by item XIX of art. 124 of the LPI, based on the prior notice that designates, in class 25, a product similar to the service specified in the application under analysis. Deferral in relation to class 36. Request partially granted.

PAGGU Uniclass Registration noting: Class 25: Clothing	PAGU to mark: Class 25: Clothing Class 35: Trade in clothing articles	Rejection in relation to class 25, by item XIX of art. 124 of the LPI, based on the prior art that designates, in class 25, a product identical to that specified in the application under analysis. Rejection in relation to class 35, by item XIX of art. 124 of the LPI, based on the prior notice that designates, in class 25, a product similar to the service specified in the application under analysis. Order rejected .

To determine whether the prior art found constitutes an impediment to the application under analysis, the priority dates for any goods or services must be considered.

Examples:

Order found in the search	Order in exam
STRONG Deposit: 09/30/2019 noting: Class 35: Accounting (priority: 04/30/2019)	STRONG Deposit: May 30, 2019 to mark: Class 35: Accounting (no priority); Advertising (no priority)
The request found in the search will be considered an impediment to the registration of the sign under examination. The request found in the search designates an identical service (accounting) whose priority date is prior to the filing date of the request under examination.	

Order found in the search	Order in exam
STRONG Deposit: 09/30/2019 noting: Class 35: Accounting (priority: 04/30/2019)	STRONG Deposit: May 30, 2019 to mark: Class 35: Accounting (no priority); Advertising (no priority)
The application found in the search will be considered an impediment to the registration of the symbol under review. The application found in the search indicates an identical service (advertising) whose filing date is prior to the filing date of the application under review. The priority claimed in the application under review refers only to the accounting service.	

5.17 Coexistence between trademarks

Coexistence agreements

According to the INPI/CPAPD Technical Opinion No. 01/2012, the document labeled "cohabitation agreement" or "co-existence agreement" marks, serves only as a support element to the examination of the application for trademark registration, and considered additional elements for forming the conviction as to the registrability of the sign.

That is, it will be accepted in order to evaluate if said document is sufficiently convincing so as to dismiss the possibility of association or confusion of the sign in question with another previously registered trademark, in addition to a possible submission of protest by the holder of the earlier right in this sense, allowing the signs in conflict to coexist in that market segment noted.

If, despite the existence of such an agreement, coexistence is deemed to be unfeasible for the signs in question, depending on the goods or services in conflict or the constitution of the signs in question, a formal demand may be made to the applicant or holder of the earlier right so that it restricts the scope of the desired protection, as a way of warding off, sufficiently, the risk of confusion or association between the signs in question. Such a requirement may be made, including in relation to its intended sign as a mark, but only in cases where the removal of a certain trademark element triggers sufficient distance as to the earlier trademark, without changing the distinctive nature of the symbol, according to guidelines available in item 9.1 Changing the trademark.

Coexistence between trademark holders of the same economic group

The INPI/PROC/DIRAD Opinion No. 12/2008 establishes the possible coexistence of similar mark holders belonging to the same economic group, without previous authorization of the holder of the previous registration, even if marketing affinity is found between the designated goods or services. An economic group is made up of one or more companies, each with its own legal personality and under the direction, control, or administration of another, constituting an industrial, commercial, or other economic group. The fact that both companies have common individuals as partners does not constitute an economic group.

Proof of the economic group relationship will be provided through a joint declaration by the companies involved, dispensing with the presentation of supporting documents. This declaration must be included in each trademark registration application, regardless of previously acquired trademark rights. To this end, users may use the declaration templates attached to this manual.

Finally, it is important to note the possibility of violating Part XX of Article 124 of the LPI, which prohibits dual trademarks for the same goods or services, unless they are sufficiently distinctive.

5.18 Decisions regarding registrability

Decisions on the registrability of a trademark symbol will take into account all factors relevant to the case, legislation and standards in force, as well as previous administrative and judicial decisions involving identical or similar symbols or circumstances.

Previous decisions

Historical decisions of the agency form a valuable resource in aiding the examination of registrability. Therefore, although they are not binding, previous decisions involving symbols that are identical or similar to the trademark in question (by the applicant or third parties) are observed and considered, even in cases of requests or registrations that are archived or extinct, with special emphasis on second administrative level or judicial decisions.

However, attention should be paid to the various laws, directives and standards in force at the time of such decisions.

5.18.1 Examination of the registrability of multiclass applications

According to art. 33 of INPI Ordinance No. 8/2022, in trademark registration applications in a multi-class system, the registrability of the trademark will be analyzed separately in each class of the application, and different legal grounds may be cited for the rejection of the application in relation to each class.

The examination of trademark registration applications in a multi-class system may result in:

- Application granted when no legal impediment to registration is found in any of the claimed classes;
- Rejection of the application, if legal impediments to registration are found in all claimed classes; or

- Partial approval of the application, when legal impediments to registration are found in some of the classes, or in case of restrictions on the specification of goods and services.

Examples:

Request	Analysis of registrability in each class	Decision
HARMONIC to mark : Class 16: Books Class 41: Book Publishing	Class 16: No legal impediments were found to the registration of the symbol. Class 41: No legal impediments were found to the registration of the symbol.	Granting of the request.
JOLENE to mark: Class 3: Cosmetic creams Class 44: Beauty salon services	Class 3: Non-registrability of the symbol due to infringement of item XIX of art. 124 of the LPI. Class 44: Non-registrability of the symbol due to infringement of items V and XIX of art. 124 of the LPI.	Rejection of the request.
SPEED to mark: Class 28: Electronic games Class 41: Entertainment Information	Class 28: No legal impediments were found to the registration of the symbol. Class 41: Non-registrability of the symbol due to infringement of item XIX of art. 124 of the LPI.	Partial granting of the request.
CASTLE to mark: Class 16: Stationery; Souvenirs	No legal impediments were found to the registration of the symbol. Exclusion of the item "Souvenir" from the specification, as it is considered generic.	Partial granting of the request.

5.18.2 Treatment of class status

The status of the class(es) will be addressed when the final decisions are made in the merits examination listed below:

- Granting of the request
- Deferral of designation
- Partial granting of the request
- Partial deferral of designation
- Rejection of the request
- Refusal of designation

In interlocutory or preliminary decisions on the merits of trademark registration applications, class situations will remain unchanged. When examining the merits of trademark registration applications,

the registrability of the trademark will be analyzed separately in each class.

Upon the final decision in the merits examination of a trademark registration application, the status of the class(es) will be updated in a manner compatible with the result of the registrability examination with respect to each of the classes, as detailed below:

- a) Approved Status when no legal impediment is identified in relation to the class under examination or irregularity in the specification of goods and services;
- b) Rejected Status when a legal impediment is identified in relation to the class under examination or an irregularity in the specification of goods and services that implies its modification by official act;
- c) Excluded Situation when the applicant requests the exclusion, restriction and/or alteration of items in the goods and service specification, through compliance with the requirement of merit or manifestation.

Any prohibition defined by law or sub-legal rule that leads to the rejection of the trademark registration application at the substantive examination stage is considered a legal impediment.

Irregularities in the specification of goods and services are inconsistencies that give rise to the adequacy or rejection of items in the specification by official act, such as generic, illicit items or items containing third-party brands.

In the event of cancellation of the final decision in the merits examination, the class will be treated to return to its situation prior to the cancellation of the decision.

Examination of the goods and services specification may result in the corresponding class being classified in more than one situation in cases of specification irregularities or requests for exclusion, restriction, and/or modification of specification items by the applicant. In this case, the corresponding items will be partitioned for each respective situation.

The rejection of a class due to legal impediments regarding the registrability of the trademark during the substantive examination

stage will result in the entire class being classified as "Rejected," and the approval of any part of the class will not be permitted.

With regard to the exclusion, restriction, modification, and rejection of items in the specification of products and services, the treatment will differ according to the nature of the act. The status "Rejected" will be applied when the act is carried out ex officio, and the status "Excluded" will be applied when the act is carried out at the request or with the agreement of the applicant.

The merit examination order for the trademark registration application will include the grounds for modifications to the specification of goods and services that result in the application of the "Rejected" and "Excluded" class situations.

For a better understanding of these procedures, a table with example scenarios is provided below:

Order	Analysis of registrability	Class Status	Decision
HARMONIC to mark: Class 16: Books Class 41: Book Publishing	Class 16: No legal impediments were found to the registration of the symbol.	Class 16: Approved (Books)	Granting of the request.
	Class 41: No legal impediments were found to the registration of the symbol.	Class 41: Granted (Book publishing)	
DOM MIGUEL to mark: Class 15: Musical instruments; Trade in musical instruments Class 41: Music Recording Studio	Class 15: No legal impediments were found to the registration of the symbol. Exclusion of the item "Trade of musical instruments" from the specification at the request of the applicant in compliance with the merit requirement.	Class 15: Granted (Musical instruments)	Granting of the request.
	Class 41: No legal impediments were found to the registration of the symbol.	Class 15: Excluded (Musical instrument trade)	
		Class 41: Granted (Music recording studio)	
JOLENE To mark: Class 3: Cosmetic creams Class 44: Beauty salon services	Class 3: Non-registrability of the symbol due to infringement of item XIX of art. 124 of the LPI.	Class 3: Rejected (Cosmetic creams)	Rejection of the request.

	Class 44: Non-registrability of the symbol due to infringement of items V and XIX of art. 124 of the LPI.	Class 44: Rejected (Beauty salon services)	
ORIGIN to mark: Class 5: Alcohol for medicinal purposes; Cocaine	Class 5: Non-registrability of the symbol due to infringement of item XIX of art. 124 of the LPI. Ex officio rejection of the item "Cocaine" of the specification, as it was considered an illicit product (after a requirement was formulated).	Class 5: Rejected (Alcohol for medicinal purposes; Cocaine)	Rejection of the request.
MONICA'S GANG to mark: Class 43: Restaurant; Meal delivery	Class 43: Non-registrability of the symbol due to infringement of item XVII of art. 124 of the LPI (after formulation of a requirement). Exclusion of the item "Meal delivery" from the specification at the request of the applicant in order to comply with the merit requirement.	Class 43: Rejected (Restaurant) Class 43: Deleted (Meal delivery)	Rejection of the request.
SPEED to mark: Class 28: Games electronics Class 41: Entertainment information	Class 28: No legal impediments were found to the registration of the symbol. Class 41: Non-registrability of the symbol due to infringement of item XIX of art. 124 of the LPI.	Class 28: Granted (Electronic games) Class 41: Rejected (Entertainment Information)	Partial granting of the request.
CASTLE to mark: Class 35: Advertising; Trade in food, refrigerators, stoves; Trade in products	Class 35: No legal impediments to the registration of the symbol were found. The item "Trade of products" in the specification was automatically rejected because it was considered generic.	Class 35: Granted (Advertising; Food trade, refrigerators, stoves) Class 35: Rejected (trade in product)	Partial granting of the request.

EPILOGUE to mark: Class 39: Transport of products Class 41: Online gambling; Show production Class 42: Software development; People management	Class 39: No legal impediments were found to the registration of the signal.	Class 39: Granted (Transportation of goods)	Partial granting of the request.
	Class 41: No legal impediments were found to the registration of the signal. Ex officio rejection of the item "Online gambling" of the specification, as it is considered an illegal activity (after formulation of a demand).	Class 41: Granted (Show production)	
	Class 42: No legal impediments were found to the registration of the signal. Exclusion of the item "People management" from the specification at the request of the applicant in order to comply with the merit requirement.	Class 41: Rejected (Online gambling)	
		Class 42: Granted (Software development) Class 42: Excluded (People management)	
GALIUM to mark: Class 3: Cotton buds Class 5: Medicinal swabs	Class 3: No legal impediments to the registration of the symbol were found. The item "Cotton swabs" in the specification was officially changed, as it constitutes a third-party trademark, to "Cotton-tipped swabs for cosmetic purposes."	Class 3: Approved (Cotton-tipped swabs for cosmetic purposes)	Partial granting of the request.
		Class 3: Rejected (Cotton swab)	
	Class 5: No legal impediments to the registration of the symbol were found. The item "Medicinal cotton swabs" in the specification was officially changed, as it constitutes a third-party trademark, to "Cotton-tipped swabs for medicinal purposes."	Class 5: Granted (Cotton-tipped sticks for medicinal purposes)	
		Class 5: Rejected (Cotton swab)	

For applications filed directly with INPI, the entry into force of the procedures described in this item is subject to the availability of the petition for multiclass applications in the e-Marcas system.

5.19 Applicable dispatches

The merit examination is the analysis of the trademark registration application itself, at which moment it is checked as to whether the symbol in process is in accordance with the provisions of the Industrial Property Law. In this step, the application can go through five situations: Formal demand, Suspension, Grant, Partial Grant and Rejection.

5.19.1 Formal Demand

A formal demand is an order of interlocutory nature, by which a party is called upon to provide information, make changes or submit such documents as necessary for the examination of the case to progress. The same should be responded to within 60 days of its publication, in accordance with art. 159 of the LPI.

Art. 159. After the opposition deadline has expired, or if filed, after the protest deadline has expired, an examination shall be made, during which formal demands may be made, which should be responded to within 60 (sixty) days.

§ 1 If the formal demand is not responded to, the request will be definitively archived.

§ 2 If the formal demand responded to, but is still not met, or if the wording is disputed, further examination will proceed.

The following cases will give rise to the formal demand in the substantive examination:

a) Inadequate specification of goods or services

A formal demand will be required when it appears that the specification of goods or services is generic, contains goods and services from different classes, includes terms equivalent to the goods or services that are considered illegal, presents a geographical indication registered in Brazil pending administrative examination by the INPI, or when there is doubt as to its legality. Specific guidelines for consideration of the specification and the circumstances that lead to the formulation of requirements can be found in item 5.4 Analysis of goods and services specifications.

b) Lack of authorization for registration of a personal name, signature, image, pseudonym and stage name of third parties

When the claimed symbol is made up of a personal name, image, pseudonym or artistic name of third parties, it is necessary to complete the data, since it is necessary to submit authorization of the holder of personality rights, as provided for in sections XV and XVI of art. 124 of the LPI.

c) Lack of authorization for registration of a name, award or symbol of an official or officially recognized event, organized by a third party, or work protected by third party copyright

There is also a need to complete the data when the claimed symbol is made up of a name, award or symbol of an official or officially recognized event, organized by a third party or work protected by third party copyright, since it is necessary to submit the authorization of the holder as provided for in sections XIII and XVII of art. 124 of the LPI.

d) A different activity to that declared for the goods or services claimed in the specification

Another example of a formal demand being issued is regarding the reported activity. In spite of the trademark application form giving the opportunity for the user of the mark, under penalty of law, that the activity is compatible with the goods or services claimed, based on art. 128 of the LPI, at the time of analysis, the applicant may be asked to clarify any doubt as to the conduct of activity, compatible with the claimed goods or services.

e) The Power of Attorney or documentation relating to the joint practice of acts that is absent, illegible, incomplete or contains different information

A formal demand will be issued in cases where the power of attorney is illegible, has erasures, is not accompanied by a translation, is outdated, required information is omitted, or it presents different information as detailed in the guidelines in Section 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

Applications filed on paper, unaccompanied by a power of attorney, will also be the target of formal demands, in which the box related to the power of attorney, ("Attached Documents" field) is checked

and did not provide reception with the required number of pages. In cases of applications with foreign holders, Article 217 of the LPI requires the applicant to provide legal representation in Brazil empowering the lawyer or agent to submit the power of attorney document within 60 days of the first part of the act, under penalty of being archived.

In joint ownership proceedings in which no single attorney is appointed with powers to represent all applicants, if the documentation proving the joint performance of the act has not been submitted, in compliance with the provisions of §1 of art. 57 of INPI Ordinance No. 8/2022, a requirement for its submission will be made. Requirements will also be made for the adequacy of the documentation when, for example, it is presented illegibly, erased, unaccompanied by a translation, if any of the applicants or attorneys lack their signature, or when it is not possible to identify the signatories of the act performed.

f) Documents proving priority that are incomplete, illegible, unaccompanied by translation or missing

In cases of applications with union priority, a formal demand might be made when the documents submitted are incomplete (either translation, specification or trademark data) or illegible so as to prevent identification of the necessary information, as per the guidelines contained in section 5.6.2 Document proving priority. Applications filed on paper that are not accompanied by a document proving priority, in which the boxes related to "Documents relating to claim of priority" or "Proof of submission in the country of origin" ("Attached Documents" field) are checked and reception made no notes as to the number of pages, will also be subject to a formal demand.

g) Mark containing geographical indication registered in Brazil

If the symbol under examination contains a reproduction or imitation of a geographical indication registered in Brazil, a formal demand for the applicant to declare their desire to proceed with their application with the removal of such a term, is subject to the conditions set out in item 5.11.10 Geographical Indication.

h) Regulation for the use of an illegible, incomplete or inappropriate collective mark

Regulations on the use of illegible collective marks, or those that do not meet the requirements detailed in section 5.14.1 Examining collective marks, will be subject to a formal demand. The same is true for modifications of the regulation subsequently submitted by the holder.

i) Illegible, incomplete or inadequate certification mark technical documentation

For trademark certification applications containing illegible, incomplete or inadequate technical documentation, the provisions of section 5.15 Analysis of trademark certification applications, also require that a formal demand be issued.

j) Coexistence agreements and companies of the same economic group

A formal demand will be required to adapt the specification or the trademark symbol regarding a coexistence agreement application for the symbols involved, in which coexistence is deemed unfeasible, as per the guidelines in item 5.17 Coexistence between trademarks. In cases of trademarks owned by company in the same economic group, a formal demand may be issued for the parties to jointly declare such business relationship.

k) Formal demand for opposing party based on item V of art. 124 of the LPI

When examining oppositions based on item V of art. 124 of the LPI, where the goods or services claimed in the opposing application do not correspond, unequivocally, with the main activity of contesting party, a formal demand may be issued in order to prove the effective exercise of the alleged activity, according to the instructions in item 5.12.5 Opposition based on item V of art. 124 of the LPI.

Withdrawal of an unregistrable part of a mark within the scope of the response or formal demand challenge

If, in response to a formal demand for the removal of a term or unregistrable element of a symbol, which the applicant requests in their defense, the possibility of changing the trademark will be permitted under the INPI/PROC Opinion No 48/2003, if the following conditions are met:

- a) The withdrawal of the unregistrable element should not change the main characteristics of the symbol originally required or give rise to the need to republish the application;
- b) The resulting signal should consist solely of the remaining elements of the mark originally requested, the addition or substitution of figurativos or nominative elements, and any change that alters the meaning of an expression or image is not allowed.

It is worth noting that the changes will be accepted only when requested by the user before the approval or rejection of the application and may not include the addition of figurativos or nominative elements. Upon the withdrawal of the unregistrable element being promoted, the subsisting symbol will be analyzed in light of the other prohibitions laid down in law.

Examples:

Original mark	Mark changed by request of the applicant	Decision
		In response to the formal demand for the submission of authorization for the registration of an artistic work mark, the applicant requests withdrawal of the image protected by third party copyright for the symbol claimed. The subsisting symbol will be analyzed in light of other legal prohibitions.
		Change will be accepted. However, the symbol will be rejected in view of the infringement of part II of art. 124 of the LPI.

How to request a service	
Service:	Formal demand compliance
Code:	340
Additional information:	3.6.1 Petitions relating to compliance with formal demands Payment table

5.19.2 Stay

A stay is a order of preliminary natureby which, before the pronouncing on the merits of the registration application, it is decided to postpone its examination until the process of priority that has not yet been definitively decided is concluded.

Such circumstances may include, among others, the following situations of previous registrations:

- a) Request awaiting payment of the fee relating to the initial ten-year registration term and issuance of a certificate;
- b) Request awaiting the period of appeal against full or partial rejection;
- c) Request awaiting the examination of appeal against full or partial rejection;
- d) Request awaiting the deadline for filing an appeal against total rejection or partial approval;
- e) Request for registration of geographical indication pending decision;
- f) Process awaiting final decision on recognition of high renown;
- g) Registration awaiting the final decision on administrative nullity proceedings (PAN);
- h) Registration awaiting final decision on invalid petition;
- i) application or registration Sub judice.

Exception to stay

As provided for in § 3 art. 23, da Portaria INPI nº 8/2022, whenever at least one of the previous registrations identified in the search is already duly registered, even if the list includes other claims or records pending final decision, the symbol under analysis will be rejected due to this registered trademark, leaving the other previously identified registrations to be pointed to the content of the decision to be published in the RPI, to support any appeal against the rejection, subject to any of several legal prohibitions being applicable.

Division of the Application in Case of Suspension of Examination

As soon as the petition for the division of registration applications is available in the e-Marcas system, when the examination of a multi-class application is suspended, the applicant may request the division of the case, which will be processed under Chapter VIII of INPI Ordinance No. 8/2022:

- The classes in which it is not possible to issue a decision on the registrability of the trademark will be maintained in the original application, whose examination will remain suspended; and
- The remaining classes will comprise a new application, for which a decision on the registrability of the trademark will be issued.

The application resulting from the division due to the suspension will maintain the same filing date or priority, if any, as the original application.

The division may be requested at any time while the examination of the application remains suspended.

The petition for the division of registrations and registration applications is not yet available in the e-Marcas system.

5.19.3 Approval

The registration application acceptance occurs when the examined symbol does not violate any legal provision and meets provided registrability conditions in all claimed classes. Thus, the application receives the approval and it is up to the holder to pay the fee for the first ten years of validity of the trademark and issue of certificate, either in regular time (60 days after publication of the decision in the RPI) or an extraordinary period (30 days after the end of the regular term), under penalty of registration application being archived.

Additional information about the granting of the trademark registration can be found in item 6.1 Granting registration.

5.19.4 Rejection

A rejection is a dispatch of a terminative nature which denies the trademark application for infringement of a prohibition established in law in all claimed classes. The holder of the rejected application may appeal against the decision, noting the terms of art. 212 of the LPI:

Art. 212. Except as expressly provided otherwise, the decision of this law is subject to appeal, to be lodged within 60 (sixty) days.

§ 1. The appeals received will have full suspensive and devolutive effect, applying all provisions pertinent to the examination of the first instance, as applicable.

§ 2. It is not up to the appeal against the decision to determine the definitive archiving of the patent application or registration and grant an application, certificate of addition or trademark registration.

§ 3 The appeals will be decided by the President of INPI, terminating the administrative stage.

In the event of an appeal being filed against the rejection of the application, registration will only be granted after the respective appeal decision and proof of payment of the fees relating to the granting of registration.

5.19.5 Partial Granting

Partial granting occurs when the examined sign is granted in some of the classes and rejected in the remaining classes, or when items in the specification are removed or changed ex officio.

The removal or change ex officio of items in the specification is a limitation of the right, as it determines the scope of protection granted to the trademark.

The holder of a partially granted application may appeal the decision regarding the rejected classes and the ex officio withdrawal of items in the specification, in compliance with the provisions of Articles 10 and 11 of this Law. 35, 36, and 37 of INPI Ordinance No. 8/2022, the following guidelines:

- Payment of fees related to the granting of registration in the classes in which the registration application is granted, even with restrictions or an ex officio change in the specification of goods and services, must be made within the regular period of 60 (sixty) days after publication of the partial granting decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the regular period, under penalty of shelving the entire registration application.
- Payment of fees related to the granting of registration in the classes in which the registration application is granted on appeal must be made within the regular period of 60 (sixty) days after publication of the appeal decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the regular period, under penalty of shelving the entire registration application.

- If a waiver is filed for all classes approved in the partial grant, the registration application will not be filed. Likewise, if a waiver is filed for all classes approved in the appeal, the registration application will not be filed.

As provided for in Article 38 of INPI Ordinance No. 8/2022, in the event of an appeal against a partial grant, registration will only be granted after the respective decision and proof of payment of the fees related to the grant of registration.

5.19.6 Other dispatches

During the substantive examination, the registration application and petitions related to it may be subject to other types of dispatch, such as:

Republication

Republication has the function of allowing third parties to protest against an already published registration application that has undergone significant changes in its bibliographic data. Among the situations that cause the republication of the registration application, are:

- a) Generic specification change, requested in compliance with a formal demand, as provided in Section 9.2 Change related to classes and specifications of goods and services;
- b) Change of specification containing geographical indication registered in Brazil or pending administrative examination by INPI, under item 9.2 Change related to the classes and specifications of goods and services;
- c) Specification amendment containing similar goods or services to illegal activities requested in compliance with a formal demand under the terms of item 5.4.6. Specification containing equivalent terms to goods or services considered illegal;
- d) Loss of union priority (removal ex officio or by withdrawal), treated in sections 5.6.2 Document proving union priority and 5.4.6. Specification for applications with union priority;
- e) Correction of typographical errors in the nominative mark, as provided for in Section 9.1 Alteration of mark;
- f) Correction of errors or omissions in color claim, in view of that indicated in section 9.1 Alteration of mark;
- g) Correction in the applicant's name;

- h) Inclusion of priority date details, omitted in previous publications;
- i) Correction of priority date;
- j) Inclusion of specification items omitted during data entry into the system (previously submitted paper applications and free-form specification electronic applications with attachments); and
- k) Correction of the claimed mark image in color, erroneously published in black and white, due to incorrect scanning (paper application).

It is worth noting that, in principle, the removal of specification items (ex officio or upon request) and the correction of the differences between the nominative part of declaration and the trademark image, does not trigger a republication of the application.

Archiving due to the lack of power of attorney

Applications or petitions filed by an attorney for whom a Power of Attorney was not attached to the file, within 60 (sixty) days from the date of application/protocol, as provided in § 2 of art. 216 of the LPI, will be archived. Remember that unreadable or erased powers of attorney will be subject to a formal demand for the required object to be attached within that time period.

Annulment of dispatch

Orders made erroneously, due to procedural errors such as the following, are subject to appeal:

- a) Not observing legal deadlines;
- b) Petitions not observed in a timely manner;
- c) Not observing the absence of mandatory documents, such as power of attorney, collective mark use regulation, among others; and
- d) Other procedural problems that give rise to a formal demand or that affect the progress of examination of the files or applications involved.

Dispatch rectification

Dispatches with incorrect or incomplete text, and dispatches that omit information such as registrations previously precluded on the basis of a legal decision, among others, are capable of being rectified. Rectification of a dispatch differs from annulment because it does not alter the progress of the process.

Decision to not recognize a petition

Pursuant to art. 219 of the LPI, the following petitions, oppositions or appeals will not be recognized:

- a) Submitted after the legal deadline;
- b) Without legal basis; or
- c) Unaccompanied by the corresponding fee payment receipt.

It should be noted that, as indicated in item 5.12.1 General guidelines for examining applications with opposition, petitions with arguments and allegations characteristic of opposition filed outside the legal deadline will not be considered, in view of the provisions of item I of article 219 of the LPI.

Act of damaging petition

The examination of petitions lacking a subject matter will be prejudiced; that is, petitions whose intended action is not applicable due to the procedural status of the request, registration, or petition at the time of filing, among which the following stand out:

- a) Opposition petitions in requests that are archived due to the lack of a power of attorney, or withdrawal or non-compliance with requirements;
- b) Petitions for response to an opposition that was archived, not heard, or prejudiced;
- c) Petitions for transfer of ownership in applications that were filed/rejected without filing an appeal at the time of the protocol; and
- d) Petitions for transfer of ownership in registrations that are extinct at the time of protocol.

However, if the existence of legal action seeking to annul administrative acts such as those mentioned above is verified, the examination of the petitions will continue, regardless of a specific court order for this purpose, moving on to the next stage of verification.

Decision to respond/not respond to a petition

Eventually, the parties involved in the processing of the applications or registrations may request the correction of data or acts relating to the case by petition. The validity of the requested corrections is evaluated, with the petitioner's request

being granted or not.

Remember that the questions involving discussion on the merits of decisions (appeals, events etc.) are subject to specific services, not falling into an INPI category for error correction, exclusively intended for the correction of formal errors or materials.

Decision to approve/reject petition

During a substantive examination, the following petitions may be subject to approval or rejection:

- a) Withdrawal of the registration application;
- b) Withdrawal of the petition;
- c) Appointment, removal or replacement of attorney;
- d) Supplementary priority claim;
- e) Waiver of power of attorney mandate;
- f) Waiver of trademark registration;
- g) Return deadline; and
- h) Correction of data in the process due to the failure of an interested party.

Decisions to grant or deny such petitions are subject to appeal, as provided for in art. 212 of the LPI.

5.20 Withdrawal of registration application

To withdraw a trademark registration or opposition application, the applicant shall submit a petition, accompanied, if applicable, by a power of attorney where the grantee proves that they have the powers to conduct such a procedure with INPI. In item 3.6.8 Petitions of withdrawal or waiver of petitions, information is available on how to submit a withdrawal petition.

Registration application

An applicant who wishes to withdraw a registration application must do so through their own petition, which may be submitted at any time prior to the award of the mark. If the withdrawal petition has been filed by an attorney it is necessary, that they have express powers to withdraw.

Withdrawal Petition

The withdrawal of a petition may be submitted at any time before the granting of registration or other procedures, such as transfer of ownership, and if necessary be accompanied by a power of attorney

with express powers to withdraw if the withdrawal has been filed by a legal representative.

The withdrawal may be total, when referring to the registration request in its entirety, or partial, when referring to part of the specified goods or services.

In applications for trademark registration under a co-ownership regime, the withdrawal petition must contain the signatures of all co-owners or be filed by a single attorney, with powers to represent all co-owners, under penalty of rejection of the withdrawal petition. Withdrawal petitions mistakenly named by the user as "waiver" will be accepted, taking advantage of the party's acts, provided that the attached power of attorney grants powers to withdraw the request or renounce registration.

Power of attorney with express powers of withdrawal

The presence of such a document is required in case of withdrawal applications filed by an attorney. Failure to do so will result in the complete withdrawal petition being denied.

How to request a service	
Service:	Registration withdrawal request
Code:	383
Service:	Partial withdrawal of registration application
Code:	3,017
Additional information:	3.6.8 Petitions for withdrawal or waiver Payment table

Note: The Registration Application Withdrawal service (code 383) should be used to request the complete withdrawal of a registration application. It is important to note that this service is not valid for the partial withdrawal of a registration application, in which case the Partial Withdrawal of Registration Application service (code 3017) should be used, indicating a change to the list of goods or services for which the withdrawal is desired.

6. Granting, maintenance and extinction of registration

6.1 Granting registration

Registration is granted when the applicant pays the fee for the first ten-year period of registration and issuance of the certificate. The registration is valid for 10 (ten) years, starting from the publication of the grant in the RPI. At the end of this period, the holder must arrange for the extension of the validity if they wish to maintain the registration of their trademark.

In the event of an appeal against the rejection or partial granting of the application, the registration will only be granted after the respective decision and proof of payment of the fees related to the granting of the registration.

As provided in articles 35, 36 and 37 of INPI Ordinance No. 8/2022, in case of partial granting of the trademark registration application, the following guidelines must be observed:

- The payment of fees related to the granting of registration in the classes in which the registration application is approved, even with restrictions or ex officio changes in the specification of products and services, must be made within the ordinary period of 60 (sixty) days after the publication of the partial approval decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the ordinary period, under penalty of archiving the entire registration application.

- The payment of fees related to the granting of registration in the classes in which the registration application is approved on appeal must be made within the ordinary period of 60 (sixty) days after the publication of the appeal decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the ordinary period, under penalty of archiving the entire registration application.

- If a withdrawal is submitted in relation to all classes approved in the partial approval, the registration application will not be archived. Similarly, if a withdrawal is presented in relation to all classes approved on appeal, the registration request will not be archived.

Notes:

If a trademark registration application is partially archived ex officio, pursuant to art 135 of the LPI, and is within the time limit for filing an appeal or whose appeal has not yet been analyzed by the INPI, the applicant must, within the ordinary or extraordinary time limit, pay the fee related to the granting of the registration, including in relation to the classes in which the registration application was archived ex officio.

Similarly, if there is a petition for partial withdrawal that aims to exclude entire class(es) and that has not yet been processed by the INPI, the applicant must, within the ordinary or extraordinary deadline, pay the fee related to the granting of the registration, including in relation to the classes that were the subject of the withdrawal petition.

6.1.1 Viewing registration certificates

The certificate is a document proving the granting of trademark registration issued after payment of the corresponding fee.

When payment of the fee for the first ten years and issuance of the registration certificate (whether for a regular or extraordinary period), the application is granted and is published in the RPI and a registration certificate is issued with the date of publication.

The certificate shall contain the mark, the number and date of registration, name, nationality and domicile of the owner, the good or services it designates, the characteristics of the registration and the foreign priority, if any.



REPÚBLICA FEDERATIVA DO BRASIL
Ministério da Economia
Instituto Nacional da Propriedade Industrial
Diretoria de Marcas, Desenhos Industriais e Indicações Geográficas

Certificado de registro de marca

Processo nº: 000000000

O Instituto Nacional da Propriedade Industrial, para garantia da propriedade e do uso exclusivo, certifica que a marca abaixo reproduzida encontra-se registrada nos termos das normas legais e regularmente em vigor, mediante as seguintes características e condições:

IMAGEM DA MARCA

Data de depósito: 20/01/2016
Data da concessão: 20/01/2017
Fim da vigência: 20/01/2027

Titular: Nome do Titular
Endereço: Endereço completo do Titular

Apresentação: Mista
Natureza: Marca de Produto/Serviço
CFE(4): 0.0.0
NCL(11): 0
Especificação: Especificação de produtos/serviços

Rio de Janeiro, 20/01/2017

Assinatura
do Diretor

Diretor de Marcas, Desenhos Industriais e Indicações Geográficas

A proteção conferida pelo presente registro de marca tem como limite o disposto no art. 124, incisos II, VI, VII, XVIII e XXII, da Lei nº 9.279, de 14 de maio de 1996.

As established in Chapter X of INPI Ordinance No. 8/2022, the trademark registration certificate and its duplicate, is issued exclusively in digital format. Certificates are issued using an electronic signature issued by a Certification Authority, in accordance with standards established by the Brazilian Public Key Infrastructure. (ICP-Brazil). Access to certificates is done on the INPI portal, according to the instructions in letter "e" of item 3.10.2 Search in the Trademark database.

How to request a service	
Service:	The first decade of trademark registration validity and delivery of the registration certificate (regular deadline)
Code:	372

Service:	The first decade of trademark registration validity and delivery of the registration certificate (extraordinary deadline)
Code:	373
Service:	Duplicate trademark registration certificate
Code:	351
Additional information:	3.8 Services exempt from form Payment table

6.1.2 Re-issuance of registration certificate

The registration certificate shall be reissued in the event of incorrect bibliographic data caused by error or omission of INPI. The new certificate will replace the previous incorrect certificate.

How to request a service	
Service:	Correction due to publication error in the Industrial Property Journal (RPI)
Code:	366
Information information:	3.6.6 Petitions concerning corrections and rectifications Payment table

6.2 Rights of the holder

According to art. 129 of the LPI, ownership of the trademark is acquired by a validly granted registration, the owner being guaranteed the exclusive use of the registered symbol throughout the country.

The legislation also provides that every person of good faith on the date of priority or filing, who used a trademark in Brazil, identical or similar to another filed with INPI, to indicate or certify identical or similar goods or services to those claimed, will have precedence for registration. Assignment of this right can only occur with the transfer of the company's business, or part of it, that maintains a direct relationship with the use of the trademark, through sale or lease.

It also provides the holder with the right to cede their registration or application as well as license its use and ensure its material integrity or reputation, preventing their trademark

from being prejudiced in the market.

The protection guaranteed by the law covers the use of the mark on papers, printed matter, advertisements and documents relating to the holder of the activity exercised in a lawfully and properly regulated manner.

However, the law does not guarantee the trademark holder its absolute ownership, but the right to use it to designate exclusively the goods and services claimed by them. Thus, the holder has no right to prevent their trademark:

- Be used by representatives or distributors, along with signs of the same, in the promotion or marketing of products that they indicate. Example: the "SANTA TERESA" petrol station may designate that the gasoline sold by them is of the "ESSO" trademark, of the fuel supplier's ownership.
- It is used by accessory manufacturers to designate the destination of the product, provided they obey fair competition practices. Example: XYZ manufacturer of brake discs may designate that the product is intended for "UNO" and "PALIO" cars, ownership marks of the vehicle manufacturer.
- It is an impediment to the free circulation of products placed on the domestic market by themselves or by third parties with their consent. Example: bicycle manufacturer "ABC" cannot prevent these products being freely sold on the domestic market.
- Being quoted in speeches, scientific or literary works or in any other publication, provided there is no commercial connotation and without prejudice to its distinctive character, vulgarizing it.

6.3 Holder's duties

It is the duty of the trademark holder to:

- a) To renew the registration every ten (10) years under penalty of extinction of the same, pursuant to art. 133 of the LPI
- b) Use the trademark to identify the goods or services for which it was granted within five (5) years after the date it was granted, under risk of cancellation of the registration; and
- c) In case of a foreign domiciled holder, appoint and maintain a duly qualified attorney domiciled in Brazil, with powers to represent them administratively and judicially, including for receiving summons, as set out in art. 217 of the LPI, also under penalty of extinction of the registration.

6.4 Renewal of registration

As provided in art. 133 of the LPI, that states "the registration will be valid for ten (10) years from the date of its granting, renewable for equal and successive periods.".

In order for the renewal to be annotated, the following conditions must be met:

- a) The application for renewal must be filed during the final year of the term of registration as provided for in § 1 of art. 133 of the LPI, or if it is not presented in this period, the holder may do so within 6 (six) months of the date immediately subsequent to the final day of the registration's validity, even if it is not being used, upon payment of an additional fee (§ 2 of article 133 of the same law.);
- b) The renewal request must be made by the right-holder;
- c) The effecting of payment of the fee, the exact value set out in the Fees Table for INPI services, with of proof of payment via the specific application not being necessary;
- d) A declaration, upon issuance of the GRU, that the holder's business activity, comprised of the goods or services designated in the registration, continues; and
- e) The holder of the collective mark and certification registration shall continue to observe the legal conditions set out in §§ 2 and 3 of Article 128 of the LPI, respectively, under penalty of the extension not being granted.

As established in Chapter X of INPI Ordinance No. 8/2022, the extended trademark certificate registration is issued exclusively in digital format. Certificates are issued using an electronic signature issued by a Certifying Authority, in accordance with the standards established by the Brazilian Key Public Infrastructure (ICP-Brazil). Access to the certificate is made on the INPI website.

It is worth noting that viewing the trademark registration certificate is only allowed by the holder thereof or their attorney, and only with login and password to access the e-INPI services. If the certificate is available, it will include an icon to download the PDF file in the line corresponding to the Dispatch service of the registration certificate.

How to request a service	
Service:	Trademark registration renewal and issuance of certificate of registration (regular time)
Code:	374
Service:	trademark registration renewal and issuance of certificate of registration (extraordinary term)
Code:	375
Information information:	3.8 Exempted services form Payment table

Notes:

In the event of partial expiry or partial cancellation of a trademark registration that is within the time limit for filing an appeal or whose appeal has not yet been reviewed by the INPI, the applicant must pay, within the regular or extraordinary term, the fee for the extension of the registration, including for the classes for which expiry was declared or for which the registration was canceled ex officio.

Similarly, in the event of a partial waiver petition seeking the exclusion of an entire class(es) and that has not yet been processed by the INPI, the applicant must pay, within the regular or extraordinary term, the fee for the extension of the registration, including for the classes that were the subject of the waiver petition.

6.5 Expiration

In addition to registration renewal, the owner has a duty to use the mark, as granted or without alteration in its original distinctive character, to identify the goods or services for which it is registered or else justify the disuse for legitimate reasons under penalty to having their registration expired pursuant to part III of art. 142 of the LPI.

This is what Art. 143 of the LPI states about the institution of expiration:

Art. 143. Any person with a legitimate interest may apply for the forfeiture of a Registration if, after five (5) years from its granting, on the date of application:

- I - use of the mark has not commenced in Brazil; or
- II - use of the mark has been interrupted for more than five (5)

consecutive years, or if in the same period, the mark has been used in a modified form that implies alteration of its original distinctive character, as contained in the registration certificate.

§ 1 - There will be no forfeiture if the holder justifies the lack of use of the mark for legitimate reasons

§ 2 - The holder will be notified to respond within 60 (sixty) days, the onus being upon them to prove use of the mark or justify its nonuse for legitimate reasons.

Reading this text, we see that the law determines that the registration can only be used for research after the expiry of five (5) years from the date of granting, as well as determining the maximum period of five (5) years for interruption of its use.

If the expiry of the registration is requested, it will be up to the holder to respond within 60 (sixty) days from the notification of expiry, and the burden of proving that he/she started using the trademark in Brazil or did not interrupt its use for more than 5 (five) consecutive years, within the 5 (five) years prior to the date of submission of the expiry request, or, further, justify its disuse for legitimate reasons, as established in § 2 of article 143 of the LPI.

6.5.1 Legitimate interest

The forfeiture procedure applicant must justify their legitimate interest, under penalty of rejection of the forfeiture petition. This justification may be based on rights already acquired or in anticipation of rights or in the interest of a submission of an identical or similar sign, the principle of specialty always being observed.

The existence of a legitimate interest will be verified in relation to the time of filing of the forfeiture. In this sense, the interest will be considered legitimate even if the right or expectation of a right indicated has ceased at the time of the examination.

Among the conditions for characterizing legitimate interest, are included:

- Registration application of an identical or similar trademark to indicate identical, similar or related goods or services;

- Registration or application for registration of a geographical indication, highly renowned trademark, or industrial design reproduced by the expired trademark;
- Personality rights;
- Copyright;
- Other rights that characterize the interest or activity of the applicant in the identical or similar marketing segment to that of the goods and services designated by the expired trademark.

6.5.2 Admissibility requirement

The declaration of forfeiture requirement will not be recognized if:

- a) On the date of the application, at least five (5) years have not elapsed from the date the registration was granted;
- b) On the date of application, use has been proven or its nonuse has been justified for legitimate reasons, in an earlier procedure requested in the last 5 (five) years;
- c) It is not accompanied by proof of payment of the corresponding fee.

Applications for expiry not accompanied by a power of attorney in the name of the signatory or in which this is presented after 60 (sixty) days of the petition will be archived, in accordance with the second paragraph of art. 216 of the LPI.

Deadline from which the record is subject to forfeiture

Registration is subject to forfeiture after the expiry of five (5) years from the date of granting.

6.5.3 Expiry investigation period

The period of investigation into the effective use of the trademark will cover 5 (five) years, counting previously from the date of the request for expiry.

Example:

Grant date	09/03/2009
Date of the expiry petition	August 29, 2022
Expiry investigation period	August 29, 2017 to August 29, 2022

The registration holder is not required to prove the use or justify the disuse of the trademark during the investigation period for expiry that is contained in the first 5 (five) years after the trademark registration was granted.

However, if the use of the trademark is proven within this period, representing a relevant set of evidence, the expiry may be waived.

To this end, it is essential that the set of evidence corresponds to a significant volume in relation to the mandatory proof period, that is, from the end of the 5 (five) years of the concession until the end of the investigation period of the expiry.

Example:

Grant date	November 27, 2012	Note: Between November 17, 2013 and November 27, 2017, the beginning of the expiry investigation period and the end of the first 5 years of the concession, it is not mandatory to prove the use of the trademark. However, if the holder does so, configuring a relevant set of evidence, it will not necessarily be mandatory to prove the use or justify the disuse of the trademark in the period from November 27, 2017 to December 17, 2018.
Date of the expiry petition	December 17, 2018	
First five years of the concession	November 27, 2012 to December 17, 2017	
Expiry investigation period (total)	November 17, 2013 to December 17, 2018	
Expiry investigation period (mandatory)	November 27, 2017 to December 17, 2018	

6.5.4 Investigation and Proof of Effective Use of the Trademark

The registration holder must attach documents proving that, during the period under investigation, he complied with parts I and II of art. 143 of the LPI, that is, he began effective use of the trademark in Brazil (Part I) or that he did not interrupt the use of the trademark for more than 5 (five) consecutive years (Part II).

The use to be proven in a revocation proceeding must be compatible with the essential function of the trademark, which is to guarantee consumers the identity of the origin of goods or services, allowing them to distinguish, without possible confusion, that goods or services from those of different origins.

To prove this, the use must be considered public and effective, that is, the use of the trademark to identify the goods or services for which the trademark was registered in a commercial activity. Use of the trademark in the private sphere of the registered owner or at a strictly internal level of a company or group of companies

is not considered public and effective use of the registered trademark.

The use of the trademark must be limited to goods or services that are offered to consumers or that are already marketed in the goods and services market. Simple preparation for use of the trademark, such as printing labels, developing packaging, creating a visual identity, etc., constitutes internal use and not use in commercial activities.

Actual use does not necessarily imply that the trademark must reach end consumers. Actual use may be considered effective use by the trademark owner in transactions with intermediary consumers whose activity consists of ensuring that products reach those consumers. Similarly, actual use of a registered trademark is considered effective use by distribution companies in the course of their business.

In assessing the actual use of a trademark, consideration will be given, among other things, to the nature of goods and services in question, the characteristics of the market in question, and the extent and frequency of the trademark's use. It is not necessary for the trademark's use to always be quantitatively significant, as this qualification depends on the characteristics of goods and services in question in the corresponding market.

A high level of proof of use is not necessarily required. While minimal use must be demonstrated, the exact nature of this minimal use varies depending on the specific circumstances of each case. According to the rule, when it serves a commercial purpose, even minimal use of the trademark may be sufficient to establish the actual use of the trademark, depending on the goods or services and the market in question.

The trademark in the documents submitted as proof of use cannot contain modifications that mean an alteration in its original distinctive character, as contained in the registration certificate.

In trademark registrations under a co-ownership regime, proof of use of the trademark by at least one of the co-owners will prevent its expiration.

Means of proof

In assessing the use of the trademark, all evidence allowed by law shall be considered.

To be accepted as supporting documents for trademark use in a trademark revocation proceeding, the evidence must:

- Be issued by the registered owner or allow the identification of the registered owner. If the trademark is used by an authorized third-party licensee, documents proving the licensing or authorization for use must be presented;
- Be dated within the investigation period;
- Reference the trademark as granted or with minimal alterations that do not alter its original distinctive character; and
- Demonstrate the trademark granted by identifying the goods or services specified in the registration certificate.

Notes:

1. Documents in a foreign language must be accompanied by a simple translation, and consular legalization is not required.
2. Illegible, erased, or undated documentation will not be considered valid evidence.
3. The evidence presented must demonstrate the effective use of the trademark in commercial activities or the provision of goods and services to consumers.

A comprehensive assessment of the documents submitted in the objection to the revocation request will be conducted. All circumstances of each specific case will be taken into account, and all elements presented will be evaluated in conjunction with one another. Therefore, although certain supporting evidence may be insufficient to prove the effective use of the registered trademark on its own, when combined with other documents and information, they can contribute to proving the trademark's use and prevent revocation of the registration.

Licensed trademarks or authorized use by third parties

In the case of evidence submitted by the licensee or a third party authorized to use the trademark, registration of the respective contracts with INPI is not required, assuming a single presentation of the licensing documents or authorization granted by the holder to the user of the trademark.

Illegible or undated documentation

Expert evidence shall not contain any illegible, erased or undated documents.

Fiscal documents

The submitted Fiscal documents shall:

- Be issued by the registered holder, by the licensee or authorized third party;
- Be dated within the period of investigation; and furthermore
- Referencing the mark as granted and the goods/services it designated.

Proof by means of an invoice must be accepted even if the trademark appears only in the header of the invoice, as long as there is no indication that goods and services specified in the invoice has a different origin.

If it is not clearly demonstrated that the goods or services contained in the tax documents are the same as those specified in the registration certificate, it is necessary to supplement the set of evidence with means of proof that clarify which goods or services are being marketed through these documents.

As a general rule, proof consists of invoices, as a general rule, the initial copy cannot be provided, as it is given to the client. The presentation of the first copy, which may exceptionally be accepted as evidence, if accompanied by justification and proof of delivery of goods and services.

Images of products, packaging, wrappers, containers, tags and stickers

Images of products, packaging, wrappers and containers, as well as tags and stickers attached to the products, are accepted, provided they contain the date of manufacture or expiration of the products within the period investigated.

It must be recorded in the images of products, packaging, wrappers, containers, tags and stickers that the product was manufactured by the registration holder, licensee or authorized third party.

Printed or digital documents

Printed or digitized documents include catalogs, pamphlets, inserts, reports, folders, flyers, banners, commercial proposals,

correspondence, manuals, among others.

The use of a trademark in printed or digital documents is, in general, considered effective use if the volume of printed documents presented is sufficient, in number and frequency compatible with the commercial characteristics of the goods or services designated. In the case of native-digital documents, it is important to have proof that they were sent to potential customers or consumers or that they were publicly disclosed.

When goods and services are offered through printed or digital documents at the same time as they are marketed and there is evidence of both activities, the printed or digital documents reinforce the effective use of the brand in the marketing of goods and services.

Use in advertising

The use of a trademark in advertising is, in general, considered effective use if the volume of advertising documents presented is sufficient, in number and frequency compatible with the commercial characteristics of the goods or services designated.

Advertising must clearly demonstrate the use of the trademark as granted to identify the goods or services specified in the registration certificate. Advertising documents that only demonstrate the registered trademark without showing the goods or services specified in the registration certificate may strengthen the body of evidence, but will not be considered sufficient, by themselves, to prove use of the trademark.

When goods and services are offered through advertising at the same time as they are marketed and there is evidence of both activities, the advertising reinforces the effective use of the brand in the marketing of goods and services.

Internet Use

Images or pages posted online must be duly dated within the investigation period and clearly demonstrate the use of the trademark as granted to designate the goods or services specified in the registration certificate. The registration of a domain name alone is not sufficient to prove effective use of the registered trademark.

The interested party must prove that the goods and services designated by the trademark are marketed or offered in association with the respective symbol and demonstrate the relationship of the

images or web pages with the trademark holder, licensee, or authorized party.

If the images or web pages presented were published online prior to the investigation period, access to them during the investigation period must be proven, in a number and frequency consistent with the commercial characteristics of the goods or services identified. In the case of images or web pages on foreign websites, in addition to a simple translation, there must be proof of importation or sale of the goods in Brazil.

Notes:

Any email address presented in the statement as proof of use must be accompanied by the corresponding image(s) demonstrating the use of the trademark to designate goods or services; and

The date of the computer screenshot will not be accepted as a date identifier within the investigation period.

Other means of proof

Notarial certificate: The content of the notarial certificate will only be accepted as proof of effective use of the trademark if the images, photos, and other documents contained therein are dated within the investigation period, regardless of the date the certificate was drawn up.

Images of trade shows, commercial events, and conventions : It is necessary to clearly demonstrate the use of the trademark as granted to designate the goods or services specified in the registration certificate. Participation contracts for trade shows, events, and conventions can serve to reinforce the body of evidence regarding the registration holder's participation and the date of these events.

Third-party statements : Statements from customers, consumers, suppliers or business partners may reinforce the body of evidence, but will not be considered capable, in isolation, of proving the use of the brand.

Commercials and Television Programs (soap operas, series, talk shows, etc.) : Media such as CDs or DVDs, streaming platforms or other display channels featuring commercials or TV programs in which

the brand is displayed indicating the television program itself must demonstrate the program's airing date within the investigation period.

The use of a trademark to identify programs shown for a specific period of time, such as series and soap operas, outside the investigation period, will not be considered effective use of the trademark after the end of its broadcast.

The display of short, specific excerpts from television programs will not be considered effective use of the trademark.

Export and import

Local marketing is considered to be the effective export of products marked by the trademark subject to registration whose use is being investigated.

If the holder is not domiciled in Brazil, nor are the services provided or the products manufactured in the national territory, proof of internalization (import) or nationalization of the goods or services in the country must be presented.

Simultaneous use of several trademarks

The joint use of multiple trademarks registered in the name of the same owner in proof of use will be accepted as valid proof of use of each trademark, provided that it is possible to identify the goods or services intended to mark each trademark individually, through additional documentation.

Complementary documents to prove use of a combined, figurative or three-dimensional trademarks

In the case of combined, figurative or three-dimensional marks, any duly dated complementary document demonstrating use of the trademark as originally registered to identify the goods and services designated in the registration certificate will be accepted as proof of supplementary use.

Ceded trademark

In the case of a proof of use issued by the assignee holder, the documents issued by this shall be considered from the date specified in the transfer contract.

Proof of use of the mark for part of the designated goods or services

In the case of a trademark that aims to distinguish a variety of

goods or services, expiration will be declared for goods or services not similar or related, specified in the registration certificate, the use of which is not proven, as determined in art. 144 of the LPI.

Collective Mark

In the case of a collective mark, the use of the mark must be demonstrated solely by the legitimate members of the entity represented by the holder and in accordance with regulations governing use of the mark, pursuant to art. 151 part II of the LPI.

Certification Mark

In the case of a certification mark, the use of the mark must be proven by the right-holder and the conditions set out in the technical documentation of the mark in art. 151, item II of the LPI.

National Classification of Goods and Services (AN 51/1981)

Upon notification, of the forfeiture of registered trademarks granted under the term of the National Goods and Services Classification (Normative Act No. 51/1981) without individualized specification, the holder will be required to submit a specification compatible with the national class and subclass of the forfeited trademark. In this sense, the evidence of use submitted should be accompanied by the relevant details of the specification compatible with the national class and subclasses of the forfeited registration, which will appear in the registration in case of maintenance of the term thereof.

Use of the trademark based on its characteristic elements

Wordmark

In addition to the word form itself, the trademark in a combined presentation is also admissible as evidence, provided the original nominative elements are maintained.

Combined Trademark

In the case of combined marks, use must be proven of the originally registered form, or so that there has been no essential change of its distinctive character, any other form of presentation not being allowed.

Figurative Trademark

Although the figurative mark should be used as registered, a combined form of presentation is also accepted as evidence, provided there is no fundamental change in the distinctive character of the figurative element protected.

Three-dimensional Trademark

Proof of use of a three-dimensional trademark must be made by means of documents that prove the use of the plastic form originally registered.

Colored Trademarks or Trademarks with Color Claims

Proof of use of trademarks registered in color or with color claims will be proven by presenting the trademark in the registered or claimed colors. Changes in the degree of color saturation are permitted, provided that the original distinctive character of the symbol is not altered, as provided for in Art. 143, Part II of the LPI.

In assessing the change in the original distinctive character, consideration will be given to whether the color is one of the main elements contributing to the distinctiveness of the symbol as a whole.

Trademark without Color Claims

For purposes of forfeiture, trademarks registered in black and white, grayscale, or without color claims may be proven by applying any colors, provided that the original distinctive character of the symbol is not altered, as provided for in Art. 143, Part II of the LPI.

Documents That Do Not Prove Effective Use of the Registered Trademark

Certain documents, while they may demonstrate that the registered, licensed, or authorized company is in business, cannot prove that the registered trademark was used for its essential purpose. These documents will not be considered sufficient to prove use of the registered trademark.

These documents include: CNPJ card, articles of incorporation, water, electricity, gas, telephone, and similar bills, business licenses, income tax or tax payment statements, fire department

permits, city permits, social security documents, employment documents, and others.

6.5.5 Alteration of the original distinctive character

When analyzing documents proving effective use of the registered trademark, the presence of minimal modifications to the symbol will not characterize the change in the original distinctive character provided for in art. 143, part II, of the LPI.

To characterize the effective use of the trademark, the assessment of the change in distinctive character will take into account, firstly, the degree of modification of the main and secondary distinctive elements of the set.

Secondly, the commercial practice of the goods and/or services considered and the relevant public will be assessed, determining whether the modifications to the symbols are common and whether they may alter the public's perception of the registered symbol.

Regarding changes to the original distinctive character of the registered trademark, the following will be analyzed mainly:

- a) the degree of modification of the trademark set, especially the main and secondary distinctive element(s);
- b) what is the degree of phonetic alteration of the trademark's name element(s);
- c) if the difference in colors is so subtle that it can go unnoticed by the average consumer;
- d) whether the color or combination of colors has, in itself, a distinctive character or whether the color is one of the main elements contributing to the distinctiveness of the symbol as a whole; and
- e) if the changes to the figurative element(s) (dimension, position of figures, drawing style) are negligible.

6.5.5.1 Addition of nominative elements

Descriptive/generic: The use of a registered trademark in a word or combined presentation with a common typology, but with the addition of generic or descriptive terms, will be considered as use of the trademark without altering the original distinctive character.

Example :

Trademark	Presented Trademark	Observations
ALFA MENTE to mark educational services	ALFA MENTE Educação Avançada Designated education services	The use of the registered trademark in conjunction with non-registrable terms that refer to the discriminated goods or services does not alter the original distinctive character of the registered trademark.

Irrelevant prepositions and articles: The addition of an article or preposition that does not substantially alter the visual or phonetic impression or the original meaning of the registered trademark tends to be accepted as use of the trademark without altering the original distinctive character.

Example :

Trademark	Presented Trademark	Observations
Álvaro Sanduíches	Do Álvaro Sanduíches	The inclusion of the preposition "do" in the presented trademark does not alter the original distinctive character of the registered trademark, given that the meaning conveyed to the consumer remains the same.
Raposa Feliz	A Raposa Feliz	The inclusion of the article "A" in the presented trademark does not alter the original distinctive character of the registered trademark, given that the meaning conveyed to the consumer remains the same.
NADA Roupas e Acessórios	DA NADA Roupas e Acessórios	The addition of the phrase "DA" to the originally granted trademark alters the meaning of the main term "NADA" in the registered set, since its inclusion makes the nominative element sound like "DANADA," a word with a different meaning. In this case, the trademark presented demonstrates a change in its original distinctive character.

Plural or singular forms: The use of plural or singular forms that do not substantially affect the original meaning, the impression created by the trademark set or the phonetic impression of the registered trademark may be accepted as use of the trademark without altering the original distinctive character.

Example :

Trademark	Presented Trademark	Observations
Menina da Cabana	Meninas das Cabanas	The trademark presented with the terms in the plural did not substantially affect the visual, phonetic impression or the original meaning of the registered trademark.

Addition/replacement of letters : The addition, replacement or subtraction of letters, without causing substantial impacts on the phonetic and/or visual impression of the nominative element(s) of the registered symbol, tends to be considered as use of the trademark without altering the original distinctive character.

However, any change that substantially deviates from the original mark and that alters the phonetic impression or meaning of the nominative element(s) of the registered symbol will be considered as use of the mark with alteration of the original distinctive character.

Examples :

Trademark	Presented Trademark	Observations
PEGO PELO	PEGGO PELLO	The duplication of the letters "G" and "P" in the trademarks shown does not cause any radical change from a phonetic or visual point of view.
CASA DE CANA	CASA DE CANAA	Adding an "A" to the end of the word "CANA" changes the meaning of the expression, which can then be understood as "CASA DE CANAÃ" (HOUSE OF CANAÃ) (even if the trademark does not have the "tilde" symbol). In this case, the trademark demonstrates a change in its original distinctive character.

Addition of distinctive terms : The addition of distinctive terms to the registered trademark may alter its original distinctive character, creating a trademark with a different meaning than that granted and which would not be perceived by the consuming public as the original trademark or as a simultaneous use of trademarks.

Examples :

Trademark	Presented Trademark	Observations
Uilson Tetra	Uilson Luz Tetra	The use of the distinctive term "Luz" modifies the original meaning of the registered trademark. In this case, the trademark presented demonstrates a change in its original distinctive character.
MART	EKO-MART	The addition of the term "EKO," which commonly evokes notions of ecology, alters the original distinctive character of the registered trademark. In this case, the trademark presented demonstrates a change in its original distinctive character.

6.5.5.2 Addition of figurative elements

In word marks: The use of a registered trademark in the word form accompanied by figurative element(s) does not alter the original distinctive character of the registered trademark.

Example :

Trademark	Presented Trademark	Observations
Praça do Machado		The use of the word mark accompanied only by figurative elements does not alter the original meaning of the registered mark.

6.5.5.3 Omission/removal of elements from the trademark set

Secondary/negligible elements: The omission of secondary or negligible elements from the trademark set tends not to alter the original distinctive character of the registered trademark.

Example :

Trademark	Presented Trademark	Observations
		The removal of the elements occupying a secondary position in the registered trademark did not alter the original distinctive character of the trademark. The main distinctive elements (the figure of an elephant's head and the nominative element "GRANDES FERAS") remained unchanged.

Distinctive Names/Terms: The omission of a distinctive term or part of it from the registered trademark set, whether or not it is dominant in the trademark set, alters the original distinctive character of the registered trademark.

Examples:

Trademark	Presented Trademark	Observations
		The removal of the nominative element "GRANDES FERAS" from the trademark submitted alters the meaning of the registered trademark. In this case, the trademark submitted demonstrates a change in its original distinctive character.
		The omission of the nominative element "GRANDES" in the trademark filed alters the meaning of the registered trademark. In this case, the trademark filed demonstrates a change in its original distinctive character.

Main figurative element: the omission of a figurative element that is dominant in the trademark set, and not merely decorative or ornamental, may alter the distinctive character of the symbol.

Example:

Trademark	Presented Trademark	Observations
		The omission of the figurative element "elephant head" in the trademark filed alters the meaning of the registered trademark. In this case, the trademark filed demonstrates a change in its original distinctive character.

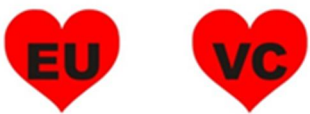
Generic or descriptive elements (unregistrable terms): The removal of unregistrable nominative elements from the trademark set tends not to affect the original distinctive character of the registered trademark.

Example :

Trademark	Presented Trademark	Observations
 to mark ice creams	 pointing out ice cream	The removal of the unregistrable expression "creamy ice creams" did not alter the original distinctive character of the registered trademark, as the main distinctive element "Rio Fubá" remained unchanged.
 to designate ice creams	 to designate ice creams	The omission of the non-registrable term (to identify ice creams) "geladinho", even though it occupies the main position in the set, did not alter the original distinctive character of the registered trademark, as the main distinctive element "Rio Fubá" remained unchanged.

Irrelevant prepositions: The removal of irrelevant prepositions tends not to alter the original distinctive character of the registered trademark, as long as the omission of the preposition does not cause a substantial change in the visual or phonetic impression or in the original meaning of the trademark.

Examples :

Trademark	Presented Trademark	Observations
Vinho do Santo Albino to designate drinks	Vinho Santo Albino to designate drinks	The removal of the preposition "do" in the presented trademark did not alter the original distinctive character of the registered trademark.
		Removing the preposition "com" from the trademark presented alters the meaning of the registered trademark. In this case, the trademark presented demonstrates a change in its original distinctive character.

6.5.5.4 Specific cases

Typologies/Characters: Changing the size of letters does not detract from the distinctiveness of the trademark. However, changes to the typology of the trademark will be analyzed on a case-by-case basis, taking into account the particularities of the registered trademark's characters (shape, curves, filling, and other stylizations).

Examples :

Trademark	Presented Trademark	Observations
		The typology of the presented mark - in comparison with that of the registered mark - did not demonstrate substantial modifications that would cause a change in the original distinctive character of the registered mark.
		The trademark presented demonstrates a typology with substantial changes in relation to the registered trademark. In this case, the trademark presented demonstrates a change in its original distinctive character.

Figurative elements: In the case of combined or figurative marks, modification, updating or modernization of the figurative elements may be accepted, as long as the overall impression maintains its original distinctive character.

Examples :

Trademark	Presented Trademark	Observations
 To designate foods	 pointing out food	The modification of the figurative elements in the trademark maintained the original distinctive character of the registered trademark. Although the fruits were modified, the meaning of the set was maintained. The type, order, and proportion of the figurative elements (banana, lemon, and strawberry) were maintained in the trademark set. According to the provisions of the subsection "Typologies/Characters," the verbal element of the set was not modified.

		The modification of the figurative elements in the trademark maintained the original distinctive character of the registered trademark. Even though the panda figure was modified, the meaning of the whole was maintained: the design's stylization is similar, and the color combination, proportion, and position within the whole were maintained in the trademark set. As provided in the subsection "Typologies/Characters," the verbal element of the set was not modified.
		The alteration of the figurative elements of the submitted trademark did not maintain the original distinctive character of the registered trademark. Elements that make up the original figure (such as the pattern on the mermaid's body and the unique shape and color of the hair) are not found in the submitted trademark or have a substantially different style. The figurative element of the submitted trademark also features colors different from those claimed in the registered trademark. In this case, the submitted trademark demonstrates an alteration of its original distinctive character.

Colors: Black-and-white trademarks allow proof of use in any color. Typically, slight changes in the hues (changes in saturation) claimed in combined and figurative trademarks do not alter the trademark's original distinctive character. However, substantial changes in color may alter the original distinctive character.

Examples:

Trademark	Presented Trademark	Observations
		Changing the color tones (darker in the registered trademark and lighter in the displayed trademark) maintained the trademark's original distinctive character. It can be seen that the colors blue, green, and yellow only underwent changes in their saturation.
		The trademark presented demonstrates a typology with substantial changes in relation to the registered trademark. In this case, the trademark presented demonstrates a change in its original distinctive character.

Inversion of names/words: Inversion in the order of words in the registered trademark set may alter the original distinctive character of the trademark.

Examples:

Trademark	Presented Trademark	Observations
Pratik Flex	Flex Pratik	The inversion in the combination of evocative terms forms distinct sets graphically and phonetically. In this case, the presented trademark demonstrates a change in its original distinctive character.
ALO CARLOS	CARLOS ALO	The inversion of terms results in the presented trademark having a distinctive character distinct from that found in the registered trademark. In this case, the presented trademark demonstrates a change in its original distinctive character.

6.5.6 Partial cancellation

Cancellation of a registration may be partial, as provided for in Article 144 of the LPI:

"Use of the mark must include goods or services stated in the certificate, under penalty of partial cancellation of the registration of non-similar goods or services for which the trademark has proven to be used."

Thus, in the case of proof of use of a registered trademark to identify a variety of goods or services, partial cancellation will be declared for those goods or services for which use was not proven, provided that they do not maintain affinity with the goods or services for which there was proof of use.

6.5.7 Disuse for legitimate reasons

When there have been legitimate reasons for the inertia of the right holder as to disuse of the trademark or as to the discontinuation of its use in Brazil, forfeiture of the registration will be rejected.

The evidence of legitimate reasons for the disuse of the trademark or the interruption of its use will be assessed according to the existing broad and freely available evidence on record, produced by the holder in accordance with the principle of freedom of evidence being admitted by any lawful means for the production of evidence as long as morally legitimate as according to the meaning of art. 332 of the Civil Procedure Code:

"All legal, as well as morally acceptable means, even if not specified in this Code, are able to be used to prove the truth of the facts, on which the action or defense is based."

As well as the guidelines of art. 30 of Law No. 9,784, of 29 January 1999: "Evidence obtained by unlawful means is inadmissible in administrative proceedings."

Thus, any means of proof in addition to those prescribed in these guidelines, is permissible, provided that it is not obtained in a morally illegitimate manner.

Legitimate reasons for non-use of a registered trademark include all cases of force majeure and circumstances beyond the owner's control (which are unforeseeable, uncontrollable, and beyond their control).

Legitimate reasons for non-use of a trademark will not be accepted if they arise from decisions made by the trademark owner(s), such as restructuring the company's business, repositioning the brand, financial difficulties of the trademark owner(s) or company partners, disputes between partners, termination of a partnership,

among others.

Reasons such as economic, financial, and/or commercial difficulties associated with periods of economic recession, among others, will not be considered legitimate reasons for non-use of the trademark. However, when duly proven, these reasons may justify a reduced number of documents proving effective use of the registered trademark.

Among the legitimate reasons for disuse of the trademark, legal impediments stand out, such as the suspension of import of supplies by government decision, and the existence of a Legal Action for Nullity of Registration or Administrative Nullity Proceeding, considering the insecurity of the holder regarding the maintenance of the registration.

In assessing the legitimacy of reasons given by the right-holder to prove the disuse of the trademark or the interruption of its use in Brazil, the following guidelines must be observed:

- Whether the allegations made by the right-holder are legitimate reasons to justify non-use of the trademark or the interruption of its use in Brazil;
- Whether the evidence produced by the right-holder proves, in fact and in law, the claims made to justify the disuse of the trademark or the interruption of its use in Brazil;
- Whether the evidence presented evidences the use of the serious and effective measures by the right holder to use the trademark in Brazil.

If it is proven that there is justification for disuse of the trademark for legitimate reasons covering at least half of the period under investigation, the lapse will be waived. Conversely, if it is proven that there is justification for disuse of the trademark for legitimate reasons, but covering less than half of the period under investigation, the owner must present evidence of serious and effective measures to resume or initiate use of the trademark, such as: distribution contracts, advertising material related to the launch of goods and services, purchase invoices for raw materials/supplies, machinery, or product labels, among others.

When disuse for legitimate reasons is alleged in lapse petitions regarding trademark registrations under a co-ownership regime, it

must be proven that the reasons presented justify the disuse by all co-owners, under penalty of lapse of the registration.

6.5.8 Cancellation of collective mark

Art. 153 of the LPI establishes that the collective mark may be cancelled if the registration is not used by more than one authorized person, observing the conditions set forth in articles. 143 to 146. It must be noted that the use of the collective mark, made available to members of the collective, is excluded as being used as evidence of its use by the representative entity or any third-parties as a means of evidence is excluded.

6.5.9 Cancellation examination

The analysis of the forfeiture takes into account, in its initial stage, the conditions set out in item 6.5.4 Admissibility requirement, and the assessment of the applicant's legitimacy, detailed in item 6.5.1 Legitimate interest.

The documents and arguments submitted by the registered holder lapsing will be appreciated by following the guidelines laid out in sections 6.5.4 Investigation and proof of effective Use of mark and 6.5.7 Disuse for legitimate reasons, as appropriate. During the examination, requirements may be formulated in order to address possible formal discrepancies, omissions or inconsistencies in petitions involved in forfeiture procedure.

Requirements for supplementary documentation may also be formulated whenever the examiner finds evidence of actual use of the trademark or legitimate reasons for its disuse, but finds the evidence unsatisfactory, indicating the reason for the inadequacy of the documents presented.

Therefore, requirements are waived, declaring the registration forfeiture, in cases where the owner:

- a) states that they are not using the trademark and does not present justified reasons for the disuse;
- b) fails to file objections within the legal period of 60 (sixty) days;
- c) presents blatantly insufficient documentation considering the nature of the goods or services in question and the characteristics of the market in question; or

- d) simply unsuccessfully contests the applicant's legitimate interest, without supporting their arguments with effective proof of use or justification for the disuse of the trademark.

After analyzing the case and, if applicable, the compliance with a formal demand, a decision is given on the declaration or denial of forfeiture of the trademark registration. It is worth noting that both decisions are subject to appeal.

Withdrawal of the cancellation application

The withdrawal of the cancellation request is only approved if it is required before a first instance decision, pursuant to the INPI/PROC/CJCONS Opinion No 02/2010.

6.5.10 Applicable Order

Declaration or denial of invalidation

The invalidation of a trademark may be declared, in wholly or partially, or denied, according to the documents supplied by the registered holder.

The declaration of cancellation may be made either because of the absence of opposition by the holder who failed to submit evidence of use within the legal period of sixty (60) days, failure to use the trademark after 5 (five) years of its grant, interruption of use of the trademark for more than 5 (five) consecutive years, or failure to justify the disuse of the registered symbol, as provided for in art. 143 of the LPI.

It is noteworthy that any decision to declare or deny cancellation is subject to appeal.

Partial cancellation

In the case of partial cancellation, when the use of the trademark is not proven in the period investigated or disuse of the symbol for some of the designated goods or services is not justified, cancellation is declared only for those items specified, registration for the rest remains valid.

It is worth mentioning that any decision to declare the partial forfeiture of a registration is subject to appeal.

Formal demand

During the cancellation examination, formal demands may be made in

order to clarify questions about the evidence presented. Such demands must be complied with, within 60 (sixty) days as with other formal demands in an examination of merits.

Decision to not recognize a cancellation petition

Pursuant to art. 145 of the LPI, cancellation requests of a trademark for which use has been proven or its disuse has been justified in a previous process, requested within the last five (5) years, should not be recognized. Cancellation petitions presented before the expiry of the 5 (five) year deadline from its granting date, will also not be recognized.

6.6 Registration Extinction

As established in art. 142 of the LPI, a registration mark shall become extinct upon expiry of the term, total or partial waiver, termination or failure to observe the provisions of art. 217 of the same law.

End of term of validity

When the right-holder does not file an application for renewal during the last year of the term of registration or within six months following the end of the decade, the trademark becomes extinct, as set out in the part I of art. 142 of the LPI.

Total or partial waiver

A waiver of registration may be total or partial, being up to the right-holder to submit the specific petition for such a procedure, and if applicable, a power of attorney granting specific powers for waiver of that mark or part of the goods or services it designates, as stipulated in the part II of art. 142 of the LPI.

In a total waiver, the right-holder gives up the right for all the goods or services claimed in the specification. In a partial waiver, the holder gives up the right for part of the services or goods claimed in the specification.

A waiver petition may be filed at any time after the registration is granted, and must be accompanied by a power of attorney with express authority to waive the registration if filed through a legal representative. Failure to do so will result in the full waiver petition being denied.

For trademark registration applications under a co-ownership regime, the waiver petition must be signed by all co-owners or filed by a single attorney-in-fact with authority to represent all co-owners of the registration, under penalty of denial.

The waiver petitions mistakenly designated by the user as "withdrawal" will be accepted, taking into account the party's acts, provided that the attached power of attorney grants express authority to waive registrations.

How to request a service	
Service:	Waiver of trademark registration
Code:	388
Service:	Partial waiver of trademark registration
Code:	3018
Additional information:	3.6.8 Petitions of withdrawal or waiver Payment table

Total or partial waiver of collective mark

According to art. 152 of the LPI, the waiver of the rights to a registered collective mark can only be requested in accordance with the terms of the article of association or stature of the entity representing the collective, or as provided in the regulation for use of the sign.

Expiry

The trademark registration may also become extinct upon examination of the request for expiry, if it is proven that the registered symbol was not used in Brazil or had its use interrupted within the investigated deadline, or even if it has been used with significant change from that contained in the registration certificate (art. 143 of the LPI).

In this case, the registration becomes extinct through cancellation, making the symbol once again available for registration.

How to request a service	
Service:	Expiry
Code:	337
Additional information:	3.6.2 Opposition petitions, administrative nullity and expiry proceedings Payment table

It is important to note that the amount corresponding to the trademark registration expiry petition will be calculated based on the number of classes covered by the expiry request. In this regard, requirements may be formulated to supplement the amount due.

Failure to comply with art. 217 of the LPI

Registration may be terminated if the right-holder, being an individual not domiciled in Brazil, does not have or maintain an attorney in Brazil, to represent them judicially and administratively.

Extinction of collective and certification marks

In addition to the reasons set forth in art. 142 of the LPI, registrations of collective and certification marks may become extinct in the situations provided for in art. 151 of the same law:

- If the entity ceases to exist;
- If the mark is used under conditions other than those provided for in the regulation for use.

7. Appeals and administrative nullity proceedings

7.1 General provisions

Decisions regarding appeals and administrative nullity proceedings are made exclusively by the President of INPI and ends the administrative stage, as provided for in arts. 171 and 212 of the LPI:

Article 171. - After the period specified in the previous article, even if no response has been filed, the case will be decided by the President of INPI, terminating the administrative stage.

Art. 212 (...)

§ 3 The appeals will be decided by the President of INPI, terminating the administrative stage.

The Technical Coordination of Appeals and Administrative Proceedings for Trademark Nullity (COREM) is the General Coordination sector for Appeals and Administrative Nullity Proceedings (CGREC), responsible for examination and technical instruction for appeals and administrative nullity proceedings of trademark registrations, brought in accordance with current legislation and the provision of advice on technical matters raised, in order to provide the necessary support for decisions made by the President of the INPI. COREM also operates in the development of technical advice to support the INPI Federal Prosecutor with lawsuit instructions.

7.2 Appeals

Under Article 212 of the LPI, unless expressly stated otherwise, the decisions mentioned in the LPI are subject to appeal, which will be lodged within 60 (sixty) days of publication of the contested act in the RPI.

Appeals are received with a fully suspensive and devolutive effect, and their decisions are the sole responsibility of the President of INPI, terminating the administrative stage.

Under full devolution effect, during his instruction, he will apply all provisions pertinent to the examination of the first administrative level, and may even include a new basis for rejection.

7.2.1 Types of Appeal

- Appeal against the rejection of the application for trademark registration;

- Appeal against the partial approval of the application for trademark registration;
- Appeal against the approval or rejection of the cancellation request;
- Appeal against ownership transfer annotation;
- Appeal against administrative archiving/cancellation (art. 135 of the LPI);
- Appeal against the acceptance/rejection of request for extension; and
- Appeal against denial of any other application.

How to request the service	
Service	Appeal against rejection of trademark registration application
Code	3000
Service	Trademark appeal
Code	333
Information additional	3.6.3 Petitions regarding demonstrations and appeals Table of Fees Service Appeal against rejection of trademark registration application (code 3000): Service applicable in cases of appeal against the rejection of a registration application or against the partial approval of a registration application. Trademark Appeal Service (except against rejection of trademark application) (code 333): Service applicable in cases of appeal against a decision issued in a petition. Service applicable against the official filing of a registration application, or against the official cancellation of a trademark registration.

In the event of rejection or partial approval of registration requests in a multiclass system, a single appeal petition must be filed against the rejection or partial approval of the request, indicating the classes subject to the appeal, as well as the reasons for the rejection or the ex officio withdrawal of items from the specification in each of these classes.

In the event of a partially granted trademark application, receipt of the appeal petition will be subject to payment of the concession fee in the granted classes. Failure to pay the concession fee in the granted classes will result in the filing of the registration application, pursuant to Article 36 of INPI Ordinance No. 8/2022, and any appeal petition against the partial grant will therefore be null and void.

The amount due for an appeal against the rejection of a trademark application will be calculated based on the number of classes subject to appeal. In this regard, requirements may be formulated to supplement the amount due.

In the event of an appeal being filed against the rejection or partial approval of the application, registration will only be granted after the respective decision and proof of payment of the fees relating to the granting of registration.

7.2.2 Appeal against the partial granted of the registration application.

The applicant whose application has been partially granted may appeal the decision to partially grant the trademark registration application, in relation to:

- a) to the rejected classes; and
- b) the exclusion or ex officio alteration of items from the specification, as established by Normative Opinion INPI/PROC/DICONS/N° 004DIRAD n° 04/2001.

As provided in articles 35, 36 and 37 of INPI Ordinance No. 8/2022, in the event of filing an appeal against the partial granting of the trademark registration application, the following guidelines must be observed:

- Payment of fees related to the granting of registration in classes where the decision to grant registration with an appendix or with the suppression of any item of the specification may be contested by the holder by means of an appeal against the partial rejection, even if the registration application is granted, even with a restriction or an ex officio change in the specification of goods and services, must be made within the ordinary period of 60 (sixty) days after the publication of the partial approval decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the ordinary period, under penalty of archiving the entire registration application.
- Payment of fees related to the grant in the classes in which the registration application is granted upon appeal must be made within the ordinary period of 60 (sixty) days after the publication of the appeal decision in the RPI or within the extraordinary period of 30 (thirty) days after the end of the ordinary period, under penalty of archiving the entire

registration application.

- If all classes approved in the partial grant are withdrawn, the registration application will not be filed. Similarly, if all classes approved in the appeal are withdrawn, the registration application will not be filed.

If the registration application is filed due to non-payment of fees related to the concession in the classes granted in the partial grant, the appeal petition will be dismissed as it lacks purpose.

7.3 Administrative nullity proceedings

The nullity of a trademark registration may be declared administratively if it was granted in conflict with the provisions of the Industrial Property Law - LPI, the terms and conditions of which are laid down in Article 168 of the LPI.

Administrative nullity proceedings (PAN) may be instituted ex officio or upon request by any person with a legitimate interest, within 180 (one hundred and eighty) days from the date of the registration certificate (date of publication of its granting in RPI).

Among other allegations contained in the petition for administrative nullity, those based on the right of precedence will be assessed, pursuant to art. 129, §1, of the LPI.

Decisions regarding administrative nullity proceedings are made exclusively by the President of INPI and ends the administrative stage.

Pursuant to the regulations of art. 172 of the LPI, the established administrative nullity proceedings must be continued, even if the registration is extinct, or even when registration is waived by the holder.

As provided in art. 170 of the LPI, the holder will be notified and may respond within 60 (sixty) days.

How to request the service	
Service	Administrative nullity of trademark registration
Code	336
Information additional	3.6.2 Opposition petitions, administrative nullity and expiry proceedings, Table of Fees

In the petition for administrative nullity, the classes for which nullity is requested must be indicated, as well as the reasons for the nullity of each of these classes.

It is important to note that the amount corresponding to the petition for administrative nullity of a trademark registration will be calculated based on the number of classes covered by the nullity request. In this regard, requirements may be formulated to supplement the amount due.

7.3.1 Withdrawal of administrative nullity proceedings

Withdrawal of administrative nullity proceedings is subject to verification of the admissibility of any complaint of an irregularity in the granting of a registration contained in an application. According to the understanding recorded in INPI/PROC/DIRAD Opinion N° 26/2008, an examination of the shortcomings highlighted in the nullity application should take place prior to the withdrawal being approved, since possible infringement of trademark legislation affects not only the interests the applicant's administrative nullity proceedings but the holder of the attacked mark.

Firstly, the issues raised in the administrative nullity proceedings petition should be examined, and only after this analysis, if any infringements of contested legal provisions, characterized in the act do not remain, withdrawal of the established procedure will be approved. The origin of the reasons having been identified, further instruction from PAN will be given and consequently, the withdrawal will not be approved.

7.3.2 Procedure for Administrative Nullity Proceedings Based on Art. 129, §1, of the LPI

The declaration of nullity of a trademark registration based on Art. 129, §1, of the LPI is conditional on the granting of the trademark registration application filed subsequently in the name of the opposing party. Therefore, if prior use of the symbol is proven, the administrative nullity proceeding will be stayed until a final decision on the application filed by the opposing party is made.

The prioritization of the opposing party's application must be observed, and it will not be denied by the challenged registration, based on Art. 124, XIX, of the LPI. The fact that the right of

precedence was recognized in an administrative nullity proceeding filed against a trademark registered by a third-party will be stated in the ruling concluding the examination of the subsequent application.

If registration is granted in favor of the challenger, the allegations based on § 1 of art. 129 of the LPI will be considered admissible, and the challenged registration will be considered null and void based on the aforementioned legal provision, without prejudice to the analysis and application of other legal prohibitions concurrently. Otherwise, the allegation based on § 1 of art. 129 of the LPI will be considered unfounded, and, depending on the analysis of other arguments contained in the nullity petition, the granting of the challenged registration will be upheld.

7.4 Appeals and administrative proceedings for partial nullity

Administrative appeals, as well as administrative nullity proceedings (PAN) may be filed at INPI by interested third parties or by the owner himself, aiming at the partial reversal of the contested act, that is, aiming only at the partial rectification of the granting of the trademark registration application or its concession.

7.5 Substantive examination of appeals and administrative nullities

7.5.1 Standards applicable to procedural instruction

In addition to specific legislation and international treaties, normative guidelines issued by INPI guides the examination of the matter, such as:

- Resolutions, ordinances and opinions of a normative nature, conferred by the President of INPI;
- Guiding Opinions issued by the INPI legal representative (INPI Attorney's office); and
- Administrative jurisprudence set by the second administrative level of INPI.

7.5.2 Principles applicable to procedural instruction

A technical examination must be based on the principles governing the administrative process in the Federal Public Administration, following, among other things, the principles of legality, purpose, motivation, reasonableness, proportionality, morality, full defense,

due process, legal certainty, public interest and efficiency. Technical opinions that guide decisions made by the President of INPI, expected predictability, technical and legal settlement and motivation stated in language as clear and simple as possible, so as to be understood by any INPI user, whether the user himself or his legal representative.

The Theory of Substantiation and the Principle of Fungibility should also be understood, as follows:

The application the Theory of Substantiation is supported by the INPI/PROC/DIRAD Advisory Opinion No. 16/08 of 24/07/2008:

... "Consequently, it is up to the Administrator, when invested in the decision-making role, to give the appropriate legal framework to the factual situation presented by the applicant". (...) "Thus pointing out, that the application should be accepted, upholding their rights in different legal standards that it would be more appropriate".

The Fungibility Principle can be found in INPI/PROC/DIRAD/ No. 02/2008 of 12/02/2008, which consigned the possibility of using an act by a party when, in an erroneous manner, a request other than that provided for by law for the contested act was filed, however, given the existence of the requirements of objective questions, timeliness and the absence of gross error on the part of the applicant in the act performed are present:

"Regarding the principle of Fungibility, which is part of the Brazilian legal system, we found that it is the principle by which a judge provides appropriate solutions for situations where it would not be possible to continue with the dispute, should an extreme adherence to form be maintained. Without this principle, a judge would, in some cases, fail to hear the conflict in its entirety, and deny the guaranteed constitutional right of access to justice."

7.5.3 Formal Demands during discovery of an appeal

Pursuant to article 214 of the LPI, during discovery of an appeal, formal demands may be made to complement the reasons presented. Whether the demands are met or not, the appeal will be decided by the President of INPI.

How to request the service	
Service	Compliance with Requirements at the Appeal/Nullity Level
Code	3016
Information additional	3.6.1 Petitions Related to Compliance with Formal Demands Table of Fees

7.5.4 Legal grounds

If an appeal or administrative nullity proceedings is presented without reasons to justify its submission, the petition relative to the application will not be recognized due to lack of legal basis, as provided for in article 219, item II of the LPI. However, upon the presentation of reasons, even if not listed as a legal basis, the possibility of applying the theory of substantiation should be verified, when, by way of the events, it is possible to identify the right claimed, thus applying the applicable legal standard to the case.

7.5.5 Access to technical opinions

Under INPI/PR No. 91/2013, published in INPI in compliance with Decree 7,724/2012, which regulates Law No. 12,527/2011 (Access to Information Act), of 18/11/2011, access to technical opinions prepared by the CGREC team or to the information contained therein, issued as technical inputs to the INPI President's decision, is only assured after its publication.

8. Transfer of rights

A mark is an asset that can be transferred, voluntarily or by court decision. The annotation of the transfer of trademark rights can occur in both registration applications and in granted registrations, provided that the terms provided by law are observed, which vary according to the type of transfer.

Once the petition for the division of registrations and applications is available in the e-Trademarks system, the transfer of rights may refer to both registrations and applications in their entirety or to part of the specified goods or services. The transfer of ownership of part of the same class is also permitted. This transfer may be accomplished through a transfer with division. Additional information can be found in section 8.9 Transfer with Division of the Process.

The petition for the division of registrations and applications is not yet available in the e-Trademarks system.

Inclusions or exclusions of joint owners or applicants in trademark registrations or applications may be requested through a petition for annotation of transfer of ownership.

In petitions for transfer of ownership affecting registrations or applications under a joint ownership regime, there must be a correspondence between the set of applicants in the petition and the new set of owners.

If the documentation supporting the transfer of ownership does not include all assignees, the applicants will be required to make the necessary adjustments. If this requirement is not satisfactorily met, the transfer petition will be denied.

If the transfer petition is not filed by a single attorney-in-fact with the authority to represent all applicants, documentation proving the joint performance of the act must also be submitted, bearing the signatures of all applicants or their respective attorneys, in compliance with the provisions of Article 57, §1, of INPI Ordinance No. 8/2022. If any applicant is represented by an attorney-in-fact, the respective power of attorney must also be submitted in this documentation. Additional information is available in item 5.6.1 Power of Attorney and Documentation Relating to Joint Performance of Acts.

The types of transfer are as follows: transfer by assignment, transfer by incorporation or merger, transfer by scission and transfer due to bankruptcy. The provisions of the LPI apply to all types of transfers, including transfers by court or arbitration order or by public deed of division of assets.

All these types of transfer must meet the provisions of Article 135 of the LPI:

Art. 135 - A assignment must include all registrations or applications on behalf of the transferor, for identical or similar marks related to goods or services that is identical, similar or related, under penalty of cancellation of the registrations or archiving of the applications not yet granted.

Article 135 emphasizes the impossibility of coexistence between the same or similar symbols, belonging to different holders or applicants to designate goods or services of the same marketing segment.

Annotations of assignment, resulting from the granting of a transfer petition, rejection of a transfer petition, archiving of applications and cancellation of registrations, are published in the RPI, subject to appeal of such decisions within 60 (sixty) days from the date of their publication.

To petition for application transfer, it is necessary to observe the requirements for each type of transfer, as well as the guidelines in the table in item 3.6.5 Petitions for annotations of ownership transfer, of limitations or encumbrances, or change of name, address and headquarters.

The request for annotation of transfer of ownership must be filed by the assignee or their attorney. The GRU for this service must be issued in the assignee's name.

Note: Annotations regarding changes to trademark application and/or registration data from the parent company to one of its subsidiaries, or vice versa, must be requested through the Petition for Change of Name, Headquarters, or Address (service 348).

How to request a service	
Service:	Annotation of transfer of ownership
Code:	349

Additional information:	3.6.5 Petitions for annotations of ownership transfer, of limitations or encumbrances, or change of name, address and headquarters Fees table

In relation to processes under a co-ownership regime, when requesting a note of transfer of ownership, the group of co-owners or applicants for the process must be informed in the "Data of the Transferee(s)" section of the form, including the previous owners who will remain in the group, after the transfer is noted.

Examples:

Examples: Inclusion of a joint holder C in a record on behalf of the set of joint holders A and B.	In the petition form, the co-owners A, B and C must be included in the "Assignee(s) Data" section.
Deletion of a joint holder A in a record in the name of the set of joint holders A and B.	In the petition form, only co-owner B must be included in the "Assignee(s) Data" section.
Inclusion of a joint holder C and exclusion of a joint holder A in a record in the name of the set of joint holders A and B.	In the petition form, co-owners B and C must be included in the "Assignee(s) Data" section.

Petitions for transfer of ownership may cover more than one process, provided that:

- The set of joint holders or applicants is the same in all cases; and
- The new set of joint owners or applicants is the same in all processes.

If these conditions are not met, it is necessary to submit more than one petition, as per the following example:

Processes	Set of Co-owners	New Set of Co-owners	Petition
Records No. 1, 4 and 7	Companies A and B	Companies A and C	Petition No. 1111
Records No.2 and 3	Companies A and B	Company B	Petition No. 2222
Records No. 5, 8 and 9	Company A	Company B	Petition No. 3333

In the above example, records No. 2 and 3 cannot be transferred through the same petition that transfers records No. 1, 4, and 7 (petition No. 1111), because the new sets of co-owners are distinct. Similarly, records No. 5, 8, and 9 cannot be transferred through the same petition that transfers records No. 2 and 3 (petition No. 2222), because they do not belong to the same set of co-owners.

8.1 Transfer by assignment

A transfer by assignment applies to cases in which a natural or legal person, called the assignor, transfers the rights to the trademarks through an assignment instrument to another natural or legal person, called the assignee.

The transfer by assignment obeys two conditions established by law:
a) The assignee, under Article 134 of the LPI, must meet the applicant's legitimacy requirement laid down in art. 128 of the LPI. Thus, the parties involved in the transfer by assignment must have activity compatible with the goods or services that the trademark aims to indicate, in a direct way or through companies that control them, directly or indirectly, under penalty of having the transfer application annotation rejected.

Art. 134. The registration application and registrations may be assigned, provided that the assignee meets the legal requirements for requesting such registration.

Specific information on the assessment of the legitimacy of the applicant for trademark registration can be found in item 5.5 Analysis of applicant's legitimacy.

b) All trademark applications and registrations of the transferor must be transferred and must be listed in the assignment document, in view of the provisions established in Article 135 of the LPI, under penalty of the applications and trademark registrations not listed being, respectively, archived and canceled. Additional information can be found in item 8.7.6 Applicability of art. 135 regarding the cancellation of registrations and archiving of requests.

For the annotation of assignment of rights, the following documents are required:

- Request for transfer of ownership, duly filled in with transferee's data;
- Proof of payment of the corresponding fee;
- Evidentiary instrument of assignment, which should contain the complete qualification of the assignor and the assignee, with the powers of representation of the signatories of the assignment document and their signatures, the application or the registration number, the assigned mark and the date when the assignment document was signed;
- Instrument attesting the assignment of priority, if any;
- Power of attorney of the assignee, if any; and
- Simple translation of documents in a foreign language, including the priority document, which are exempt from consular legalization;

The transfer of a trademark application or registration by assignment must be requested by a protocolled petition for Annotation of transfer of the holder, code 349.

Note: in the case of application pending an examination on merits, the assignee is not exempt from providing clarification on the activity of the trademark applicant, as well as meeting other requirements that apply to the trademark registration application in question.

8.2 Transfer by incorporation or merger

Incorporation is an operation that occurs when one or more companies are absorbed by another, which succeed all rights and obligations, including the rights to trademarks. The merger, in turn, is an operation that occurs when two or more companies unite to form a new company that also succeeds all the rights and obligations.

Annotation of transfer by incorporation or merger occurs by submitting documents that prove these operations:

- a) In order for a transfer derived from company incorporation to be made, the acts of incorporation, annotated at the competent body, must be presented.
- b) In the case of transfer due to a merger of companies, acts related to the merger as well as constitutive acts of the new company, endorsed by a competent body, must be submitted.

The merging company and the new company resulting from the merger should promote the transfer of ownership of all registration applications and all records which may exist respectively in the name of embedded company and the merged companies. Otherwise, all registration applications will be archived and all records canceled that are not transferred when the respective marks are identical or similar and the goods or services are identical, similar or related to those objects of the applications or registrations effectively transferred, as provided for in article 135 of the LPI. Additional information can be found in item 8.7.6 Applicability of art. 135 regarding the cancellation of registrations and archiving of requests.

For the annotation of assignment of rights, the following documents are required:

- Request for transfer of ownership, duly completed with the transferee's details;
- Proof of payment of the corresponding fee;
- Acts of incorporation or acts related to the merger and incorporation of the new company, endorsed by the relevant body;
- Power of attorney of the assignee, if any;
- Simple translation of the documents in a foreign language, exempt from consular legalization.

The transfer of a trademark application or registration by merger or incorporation must be requested by a protocolled petition for Annotation of transfer of the holder, code 349.

8.3 Transfer by split

A split is an operation whereby the company transfers parts of its assets to one or more companies, already existing or established for this purpose, and the split company is extinguished, if any or all of its assets are passed on, or its capital is divided in case of a partial split (Article 229 of Law 6,404/1976).

A transfer of trademark ownership may occur on the basis of a split. Therefore, the applicant shall submit documents corroborating the operation endorsed by the appropriate body.

The assignee shall promote the transfer of ownership of all registration applications and all existing records that may exist on behalf of the divided company. Otherwise, all registration applications will be archived, and all registrations not

transferred will be canceled, when the respective marks are identical or similar and the goods or services are identical, similar or related to those objects of the applications or registrations effectively transferred, as provided in article 135 of the LPI. Additional information can be found in item 8.7.6 Applicability of art. 135 regarding the cancellation of registrations and archiving of requests.

For annotation of the transfer on the basis of a split, the following documents are required:

- Transfer request, duly filled in with assignee data;
- Proof of payment of the corresponding fee;
- Acts of split and incorporation of the new company annotated at the competent body;
- Power of attorney of the assignee, if any;
- Simple translation of the documents in a foreign language, exempt from consular legalization.

The transfer of a trademark application or registration by split must be requested by a protocolled petition for Annotation of transfer of the holder, code 349.

8.4 Transfer by legal or testamentary succession

The transfer by legal or testamentary succession occurs when the mark is transferred by virtue of judicial decision on shares and property.

In this type of transfer, all requests or records that contain identical or similar trademarks to designate related goods/services, must be transferred, under penalty of, in accordance with art. 135 of the LPI, which will cause the registration applications to be archived and canceled with the records not being transferred. Additional information can be found in item 8.7.6 Applicability of art. 135 regarding the cancellation of registrations and archiving of applications.

For the annotation of transfer on the basis of succession, the following documents are required:

- Request for transfer of ownership, duly completed with the transferee's details;
- Proof of payment of the corresponding fee;

- Official documents (judicial or extrajudicial) that prove the transfer by legitimate or testamentary succession, such as the Formal Partition or the Extrajudicial Inventory Registered in a Notary's Office, or equivalent, the mere presentation of a death certificate not being sufficient;
- Power of attorney of the assignee, if any;
- Simple translation of the documents in a foreign language, exempt from consular legalization.

Under the terms of item I of art. 619 of the Code of Civil Procedure, the rights to the trademark may be transferred by the executor, provided that the interested parties have been heard and with the authorization of the judge.

The request for transfer or trademark application or registration by legal and testamentary succession must be requested through petition for Annotation of transfer of the holder protocol, code 349.

8.5 Transfer by bankruptcy

Trademarks are assets that can compose the assets of the bankruptcy estate and may be transferred by judicial decision.

The ownership transfer procedure must involve all applications for registration and all existing records that may exist, on behalf of the bankruptcy estate. Otherwise, all registration applications will be archived and all records canceled that are not transferred when the respective marks are identical or similar and the goods or services are identical, similar or related to those objects of the applications or registrations effectively transferred, as provided for in article 135 of the LPI. Additional information can be found in item 8.7.6 Applicability of art. 135 regarding the cancellation of registrations and archiving of requests.

To promote the transfer of registration applications or trademark registrations that are included in the universality of bankruptcy goods, the following documents must be submitted:

- Request for transfer of ownership, duly completed with the transferee's details;
- Proof of payment of the corresponding fee;
- Judicial Permit authorizing the assignment of rights to the trademark;

- Assignment document signed by the liquidator of the bankruptee or the trustee appointed by the tax court, subject also to all other legal formalities;
- Power of attorney of the assignee, if any;
- Simple translation of the documents in a foreign language, exempt from consular legalization.

The transfer of a trademark application or registration by bankruptcy must be requested by a protocolled petition for Annotation of transfer of the holder, code 349.

8.6 Transfer of collective mark

A request for transfer of a registration or registration application of a collective mark is not considered applicable, but is rejected based on art. 134 LPI combined with Part III of Art. 123 of this same law. This is justified since the transfer of a symbol of a collective nature breaks the intrinsic relationship between the collective mark and its holder, without which the first may not be characterized as such. This relationship is established by Part III of Art. 123 of the LPI, which defines that a collective mark denotes goods or services from members of a given entity, an aspect which doesn't exist in other definitions as to the possible nature of the trademark.

8.7 Analysis of transfer petitions

The analysis of transfer petitions will be initiated only after a preliminary check as to the payment of appropriate fees. This verification will consider if:

- a) Payment for the service has been made by when the application was submitted;
- b) The GRU has been generated with the correct service code and with the value corresponding to the interested parties' (assignee's) registration; and
- c) The amount paid corresponds exactly to the value in the GRU generated, of which there should be only one presented for each transfer request.

If payment has not been made by the date on which the transfer petition was submitted, the petition will not be heard due to nonpayment. If the payment was made at a lesser value than that of the generated GRU, a formal demand will be made for a supplementary

payment of the balance. The non-hearing of the petition or a formal demand for supplementary payment, will be published in the RPI.

If the formal demand is not met within 60 (sixty) days of publication in the RPI, the transfer petition will be rejected on the basis of art. 134 of the LPI.

Multiple Transfer Petitions in a Single Process

In the case of multiple transfer petitions signed by the same transferor on behalf of different transferees, the one containing the oldest dated transfer document will be examined.

If two or more petitions for annotation of transfer of ownership, involving the same applications and/or registrations, are submitted by the last transferee involved, the petitions will be examined together, and the latter will be responsible for complying with any requirements applicable to any of these transfers. Submission of a power of attorney granted by the last transferee involved in the transfer will satisfy the requirements set forth in arts. 216 and 217 of the LPI.

8.7.1 Transfer requirements examination queues

There are two examination queues for transfer requests:

Regular queue

Groups the transfer requests to be examined, according to the chronological order of the protocol.

Special queue

Consists of petition transfers under the following conditions:

- By judicial determination so as to advance the examination;
- Trademark registration applications, of which the continuation of the merit examination depends on the transfer request examination;
- In trademark applications or registrations where the continuation of the appeal review or administrative nullity proceedings depends on the review of the transfer request; or
- Applications or registrations involved in the approvals of technology transfer agreements.

8.7.2 Transfer request examination steps

Examination of the transfer application comprises four basic steps:

- Verification of the status of the application or registration to be transferred;

- Verification of basic requirements regarding the transfer petition, namely: powers of the assignor to cede the mark, documentation presented, which at a minimum, must contain the assignment document, and consideration of whether all related processes in the assignment procedure document have been paid for;
- Verification as to the compatibility of the activity of the assignee, in accordance with Article 134 of the LPI c/c § 1 of Art. 128 of the LPI;
- Verification of the applicability of Article 135 regarding the cancellation of registrations and archiving of applications.

8.7.3 Verification of status of application or registration to be transferred

It verifies the status of the processes involved in the transfer, in order to advise whether there will be any immediate decision on the request or whether the petition will undergo further examination.

a) Applications or registrations pending litigation

If the status of an application or registration listed in the transfer petition is under judicial review, with a freeze, pledge or any encumbrance, the transfer will be stayed until the impediment is removed, the same goes for similar marks. The examination of the transfer of the trademarks not under the application or registration with encumbrances will continue normally.

b) Registration applications not yet published for opposition

If the transfer process list contains any registration applications not yet published for opposition, examination of the transfer will be stayed.

c) Archived requests or terminated registrations

The review of the transfer of archived requests, requests denied without an appeal, those whose denial was upheld on appeal, or those deemed non-existent, as well as registrations that were terminated, declared null, or previously canceled ex officio, is hampered. Only current registrations or ongoing requests will be considered. If the transfer request includes only archived or terminated cases, it will be hampered. However, if a legal action is established seeking to annul the administrative act of archiving, denial, termination, ex officio cancellation, or declaration of nullity or non-existence, the review of the transfer will continue in any case,

regardless of a specific court order for this purpose, moving on to the next stage of verification.

d) Requests or registrations in other situations

If a request or registration not in any of the aforementioned situations occurs, examination of the transfer will proceed, passing on to the next verification step.

8.7.4 Verification of basic requirements

In this step, the following formal demands are verified:

- a) Whether those acting as assigning party are empowered to transfer the mark.
- b) Whether the required documentation in transfer procedures was properly presented, according to each type of transfer: by assignment, by incorporation or merger, by scission, by legal or testamentary succession or by bankruptcy.
- c) If the assignment document, included: the assignor and the assignee or their representatives respectively qualified, if applicable; their signatures; the mark (in the case of nominative or combined), the case number and the date of the document.
- d) Whether payment has been made of the fees due, with regards to the number of processes involved in the transfer procedure; and
- e) If the transfer was authorized by all co-owners or applicants, except in cases of transfer by court or arbitration order or by public deed of division of assets.

Regarding item "b," it is worth noting that notarized documents will be accepted as evidence of the transfer, provided they meet the requirements set forth in Law No. 9,279 of May 14, 1996, and described in this Manual.

Regarding the provisions of item "b," the transfer authorization instrument must contain the full details of all co-owners or applicants, as well as their respective signatures or those of their attorneys, indicating, in this case, the powers of attorney.

This step may result in a formal demand being issued so that:

- The applicant provide or supplement the required documentation;
- Supplementary fees are to be paid, in view of the number of processes involved in the transfer or else processes will be restricted to the amount actually paid;

- The applicant provide information or present relevant documentation when there are doubts regarding the powers of those referred to as the assignor of the mark.

Verification of the powers of those assigning the mark

The legitimacy of signatories is checked in the articles of incorporation, when presented, or through the identifications stated in the assignment document (e.g. "Director," "president," "managing partner" among others). If the applicant, is a person other than the procedural relationship, the petition will be dismissed.

When the articles of association contain in one of the clauses that the sale or acquisition of assets must be carried out as stated in the clause, a formal demand for proof will be made in the case of absence of the same.

The publication of any formal demands will be made in the RPI, with the applicant having a period of 60 (sixty) days to comply or challenge the requirement, under penalty of the transfer of ownership request being rejected.

Individual Entrepreneur with Expired Registration

As stated in AGU/PGF/PFE/INPI/COOPI Opinion No. 25/2013, an individual entrepreneur with an expired registration has the legal capacity to assign and transfer a trademark application or registration, since the assets of an individual entrepreneur are intertwined with those of a natural person.

8.7.5 Analysis of assignee(s) activity(ies)

Verification of the applicability of Art. 134 of the LPI requires the analysis of the provisions of Art. 128 of the LPI, the principles of which are set out in item 5.5 Analysis of applicant's legitimacy. Thus, the suitability of assignee activity(ies) will be verified on the basis of such principles.

In this step, is assessed whether the assignee's activity is compatible with the goods and services designated by the processes to be transferred, except in cases of incorporation or merger and scission, in which it is understood that it was given for the continuation of the assignor activity. When dealing with a succession or bankruptcy transfer, which are made by determination if a transferee does not have a compatible activity, it may be transferred immediately thereafter to a company or individual that

has a compatible activity as that of the trademark (a so-called "bridge").

When remaining activity for only a few applications or records is proven, the recording of the transfer will be promoted only to those applications or registrations that are in accordance with the provisions of Article 128 of the LPI. For applications or registrations in which the suitability of the activity of the assignee for designated goods or services is not clearly characterized, a formal demand will be issued. If the activity is incompatible, the transfer will be rejected on the basis of § 1 of Art. 128 of the LPI.

Cases of transfer by legitimate succession may be accompanied by additional documentation which indirectly contemplates the provisions of Article 128 of the LPI.

Such analysis may result in:

- a) Formal demands being issued to the assignee if there are doubts as to the compatibility of the activity with the designated goods or services, which should be met within the 60-day deadline, stipulated by law, from the date of publication of the formal demand in the RPI;
- b) Granting of the transfer petition, if all requirements of the previous steps have been completed, and have not been subject to formal demands being made, or if made, have been satisfactorily complied with in due time;
- c) Rejection of the transfer petition if assignee activity is not compatible with the goods/services designated by the trademark and if a formal demand has been made, the same has not been complied with.

Subject to appeal against the decision to approve or reject the request for transfer annotation in accordance with the LPI.

8.7.6 Applicability of art. 135 regarding cancellation of registrations and archiving of requests

If the petition for transfer of ownership is granted, the existence of other registrations or trademark registration applications in the name of the transferor that have not been transferred will be verified.

As determined by article 135 of the LPI, registration applications or registrations in the name of the transferor that have not been

transferred and that contain identical or similar trademarks will, respectively, be filed or cancelled ex officio.

In registrations or registration applications under a multiclass system, the application of art. 135 of the LPI will be assessed for each class and may result in the filing or cancellation of classes that identify identical, similar, or related goods or services. In these cases, the filing or cancellation will be applied to the class as a whole, even if it identifies goods that are not related to those transferred.

Example:

Records of the assigning holder	Record No. 1 Wordmark: Panda Class 17: Artificial resins, semi-processed	Record No. 2 Wordmark: Panda Exclusive Class 06: Metal hinges Class 17: Rubber window stops; Semi-processed synthetic resins
Application of 135	If only registration No. 1 is transferred , registration No. 2 will be cancelled in respect of class 17, which contains similar goods (Synthetic resins, semi-processed) to those transferred in registration No. 1 . It should be noted that the cancellation will be applied to the entirety of class 17, even if it contains goods that are not related (Rubber window stops) to the goods transferred in registration no. 1 . However, registration No. 2 will not be affected in relation to class 06, which does not contain goods identical, similar or related to those transferred in registration No. 1 .	

The analysis of the applicability of art. 135 of the LPI must observe the contents of section 5.11.2 Examination of market affinity. It must also be verified whether the trademarks that were not the subject of the transfer and are in the name of a company within the same economic group.

It should be noted that, in the event of partial archiving ex officio, the continuation of the process in relation to the other classes must await the examination of any appeal against the decision.

If the transfer of ownership involves registrations or applications for registration under a co-ownership regime, all applications or registrations for identical or similar trademarks, relating to an identical, similar or related good or service, must be transferred in the name of the same set of co-owners or applicants for the process that is the subject of the transfer.

Example:

Records	Record No. 1 Wordmark: Panda Co-owners: A, B and C Class 17: Artificial resins, semi-processed	Record No. 2 Wordmark: Panda Exclusive Co-owners: A, B and C Class 17: Rubber window stops; Semi-processed synthetic resins
Applicat ion of 135	If registration No. 1 is the subject of a transfer petition, in which joint holder B has been replaced by joint holder D, if no transfer is requested in relation to registration No. 2 , it will be cancelled ex officio.	

Companies of the same economic group

Based on the claim of belonging to the same economic group, which must be proven in the application, the assignor may maintain conflicting trademarks in related activities, provided that their goods/services are distinct, as understood in INPI/PROC/DIRAD/Opinion No. 12/08. An economic group is comprised of one or more companies, each with its own legal personality and under the direction, control, or administration of another, constituting an industrial, commercial, or other economic group. The fact that both companies have individuals in common as partners does not constitute an economic group.

Proof of the economic group relationship will be provided through a joint declaration by the companies involved, dispensing with the submission of supporting documents. This declaration must be included in each trademark registration application, regardless of any previously acquired trademark rights. To this end, users may use the declaration templates attached to this manual.

Coexistence agreements

Along the same lines as the application of the provisions of art. 124, item XIX of the LPI, the so-called coexistence agreements will also be considered as supports in the examination of requests for annotation of trademark assignments, so as to remove the cancellation or archiving established in art. 135 of the LPI, and it is up to the assignee to present them, whether at the time of the request for such annotation, or in the appeals phase. This will be done without prejudice of the possibility of formal demands being made to wipe the requirement by INPI, and apart from any protest application by the assignee, as to the peaceful coexistence between the ceded trademark symbols and those remaining similar or identical signs, in relation to identical, similar or related goods or

services under the assignor's ownership.

In case of incompatible activities, the transfer annotation request will be rejected, in view of the provisions of articles. 134 and 128, § 1 of the LPI, except for the cases that characterized the legal status of parent company and subsidiary.

8.7.7 Applicable dispatches

Formal demand

It is intended to clarify any doubts, omissions or discrepancies regarding the documentation for the transfer examination.

Approval

If having met all the legal requirements for registration, the transfer petition is granted.

Rejection

Occurs in cases that have not met the legal requirements for registration of the transfer.

Archiving of the petition

Petitions filed by an attorney whose power of attorney has not been submitted within 60 (sixty) days from the date of filing, will be archived.

Archiving and cancellation in office

Applications and registrations in the name of the transferor or the group of non-transferred joint owners or applicants are subject to official filing and cancellation when referring to trademarks subject to conflict, as detailed in item 8.7.6 Applicability of art. 135 as to cancellation of registrations and archiving of applications.

Decision to not recognize a petition

Petitions will not be recognized if they are filed after the legal deadline, have no legal basis or are without proof of payment.

Decision that prejudices a petition due to lack of object

If applications or records listed in the assignment instrument to, are respectively rejected without an appeal or become extinct, the examination of the transfer request will be prejudiced due to lack of object. The same applies to cases where the requested transfer service has been attended to previously by publication in the RPI.

However, if the existence of a legal action is verified to annul the administrative act of archiving, rejection, extinction, ex officio cancellation or declaration of nullity or non-existence, the examination of the transfer will continue, in any case, regardless of a specific court order for this purpose, moving on to the next stage of verification.

8.8 Transfer by court order

The transfer of ownership may be carried out by court order, provided that the asset to be transferred is duly individualized, with the process number and brand, and/or the owner is duly identified, with the CNPJ/CPF, if national, or name and full address, if foreign.

The existence of limitations or encumbrances that have been previously recorded on the trademark, due to judicial determinations issued in different proceedings, will be communicated to the Court that determined the transfer of ownership, so that the rights of interested parties who have promoted the seizure of the same registration are protected, awaiting the INPI's judicial decision regarding the information.

In the event of a court order for transfer of ownership of a case in which there is no petition for the annotation of the determined transfer of ownership, the court order will be pre-notified, and it will be stated that the order will be completed after the submission of the appropriate petition, in accordance with Article 228 of the LPI. The case's registration data will not be changed until the petition for annotation of the transfer has been reviewed.

At this stage, for the purposes of complying with the provisions of Article 128, §1, of the LPI, it will be assessed whether the transferee's activity is compatible with the goods and services identified by the processes to be transferred. In transfers by court order, if the transferee does not have a compatible activity, it must transfer it in a continuous act to a legal entity or individual that has a compatible activity to which the trademark is related. Any petition filed for a trademark application or registration by the new owner, when it is pre-registered, will be subject to a requirement for the regularization of the process at INPI to be arranged.

The INPI will publicize, through the RPI, judicial determinations that aim to notify a decision or sentence.

8.8.1 Transfer in favor of a third party purchaser or successful bidder

In cases of transfer of ownership determined by a court in favor of a third party purchaser or successful bidder (judicial sale), this will be duly noted regardless of the existence of notes on limitations or burdens in the process.

In these cases, the previous limitation or encumbrance notes will be finalized, extinguishing the respective restrictions. The INPI will inform the respective Courts that had determined such limitations about the judicial sale in favor of a third party.

8.8.2 Awarding

The Paris Convention (CUP), in its article 6 septies (I), provides for the possibility of awarding trademark registration in cases where the agent or representative of the trademark owner (previously registered in one of the CUP member countries) has acted in breach of the powers conferred upon him , registering it in his own name in another country:

Paris Union Convention

Art. 6th septies

(i) If the agent or representative of the proprietor of a mark in one of the countries of the Union applies, without the authorization of that proprietor, for the registration of that mark in his own name in one or more of those countries, the proprietor shall have the right to oppose the registration applied for or to request the cancellation or, if the law of the country permits, the transfer in his favor of the said registration, unless that agent or representative justifies his action.

The possibility of awarding an unduly registered trademark is also provided for in art. 166 of the LPI:

Article 166. The owner of a trademark registered in a country that is a signatory to the Paris Convention for the Protection of Industrial Property may, alternatively, seek, through legal action, the award of the registration, under the terms set forth in Article 6, paragraph 1, of that Convention.

In the event of a court order awarding a case in which there is no petition for the annotation of the transfer of ownership, the court order will be pre-notified, and the transfer will be completed upon submission of the appropriate petition, in accordance with Article 228 of the LPI. The case's registration data will not be changed until the petition for annotation of the transfer is reviewed.

In cases of adjudication pursuant to art. 166 of the LPI, a technical assessment will not be carried out regarding compliance with the provisions of §1 of article 128 of the LPI. Since only the owner of a trademark registered in a signatory country of the CUP is entitled to file an adjudicatory lawsuit, there is no room for analysis regarding the exercise of activity related to the registration after the respective lawsuit has been ruled admissible.

8.9 Transfer with division of the process

Once the petition for the division of registrations and registration applications is available in the e-Trademarks system, the transfer of rights relating to part of the goods or services specified in a trademark registration or application may be requested through a transfer with division of the process. The rights contained in the same class.

A transfer with division will be processed under Chapter VIII of INPI Ordinance No. 8/2022 and will give rise to a new application or registration, which will consist of the goods or services subject to the transfer and will maintain the same filing date or priority, if any, as the original application or registration. In the case of a division of a registration already in effect, the registration resulting from the division will also maintain the validity period of the original registration.

When filing a transfer request with division of the process, it is necessary to observe the requirements for each type of transfer (by assignment, incorporation or merger, spin-off, legal or testamentary succession, bankruptcy, or court order). If these requirements are not met, the division of the registration or trademark application will not be processed.

The transfer must include identical, similar or related goods or services, under penalty of cancellation or archiving of the original registration or registration application.

The existence of other trademark registrations or applications in the name of the transferor that have not been transferred will also be verified.

Example:

Original record	Registration No. 1 (Wordmark: Panda) Class 06: Metal door latches; Metal window fittings
Registration resulting from transfer with division	Registration No. 2 (Wordmark: Panda) Class 06: Metal door locks
Application of art. 135 of the LPI	Registration No. 1 will be cancelled, since the remaining goods (Metal window fittings) are related to the transferred ones (Metal door fasteners).

A petition for Annotation of Partial Transfer of Owner with Division of Process must be submitted for each trademark registration or application.

The petition regarding the division of registrations and registration requests is not yet available in the e-Marcas system.

9. Various annotations and alterations

INPI will make annotations of changes or modifications in the mark and the bibliographic data of the holder (name, company name or address), Nice and Vienna Classification, plus assignment of the mark, with proper identification of the assignee. Alterations related to liens, rights limitations or encumbrances that fall on the application or registration, will also be annotated in the agency register.

These annotations begin to take effect for third parties as from their publication in the RPI. In cases of orders to cancel the assignment annotation or cancel the registration or archive the application, it is up to the holder to submit a counter appeal to the decision.

9.1 Alteration of the mark

As a general rule a mark cannot be changed after the filing of the registration application. However, some specific circumstances allow the modification of the symbol originally filed.

Typographical errors in the nominative mark

By failure of an interested party

In the case of an obvious mistake in typing the nominative element of the mark, it may be corrected before granting or rejecting the application, upon request of the applicant, because it is a mere adjustment. However, the error and the intention of the registration of the correct sign need to be characterized.

Therefore, the applicant may submit a petition for Data Correction in the process due to the interested party's error (378), presenting any and all documentation capable of characterizing that there was indeed an error in typing or filling in the nominative element, such as, for example, documents proving priority, proof of prior use of the trademark or even a previous record containing the intended nominative element.

In cases of failure by the interested party due to typing errors, if the request is granted, the registration request will be republished.

By failure of INPI

When the incorrectness of the nominative element of the mark is due to INPI failure of data deployed in the system, the correction may

be performed ex officio or upon application by Rectification petition for publishing error protocol as in the Industrial Property Journal (RPI) (code 366) free of charge. Once the nominated element is corrected, the application will be republished.

How to request a service	
Service:	Data correction in the process due to interested party failure
Code:	378
Service:	Correction due to publication error in the Industrial Property Journal (RPI)
Code:	366
Additional information:	3.6.6 Petitions concerning corrections and rectifications Payment table

Color claim incorrectness or omission

By failure of an interested party

In the case of obvious mistake or omission of the color claim of the figurative element of the mark, it may be corrected before granting or rejecting the application, at the request of the applicant, because it is a mere adjustment. However, the error and the intention of the registration of the correct symbol need to be characterized.

Therefore, the applicant may submit a petition for Correction of data in the process due to the interested party's failure (378), presenting any and all documentation capable of characterizing that actually there was mistake in the color of the mark claim, for example, documents supporting the priority or proof of previous symbol use.

In cases of failure by the interested party due to typing errors, if the request is granted, the registration request will be republished.

By failure of INPI

When the omission or inaccuracy of the color claim results from INPI failure of data deployed in the system, a correction may be made ex officio or on application by Rectification application protocol for publishing error in the Industrial Property Journal

(RPI) (code 366) free of charge. Once the color claim is corrected, the application will be republished.

How to request a service	
Service:	Data correction in the process due to interested party failure
Code:	378
Service:	Correction due to publication error in the Industrial Property Journal (RPI)
Code:	366
Additional information:	3.6.6 Petitions concerning corrections and rectifications Payment table

Incorrectness in the combined, figurative or three-dimensional mark

Due to the interested party's failure

In cases of obvious inaccuracy in the combined, figurative, or three-dimensional presentation attached to the initial petition, it may be corrected before the application is granted or denied, upon request by the applicant, as this is an adjustment. However, the error and the intention to register the correct sign must be clearly established.

To this end, the applicant must file a petition for Correction of data in the process due to the interested party's error (378), presenting any and all documentation capable of characterizing that there was actually an error in the attached combined, figurative or three-dimensional presentation, such as, for example, documents proving priority, proof of previous use of the trademark or even a previous registration containing the intended combined, figurative or three-dimensional element.

In cases of error in the combined, figurative or three-dimensional presentation due to the interested party's failure, if the request is granted, the registration application will be republished.

Due to INPI's failure

When the incorrect combined, figurative, or three-dimensional presentation is due to an error by the INPI in implementing data into the system, the correction may be made ex officio or at the

request of the interested party, by filing a petition for Rectification due to publication error in the Industrial Property Journal (RPI) (code 366), which is free of charge. Once the trademark presentation is corrected, the application will be republished.

How to request the service	
Service	Correction of data in the process due to the interested party's failure
Code	378
Service	Correction due to publication error in the Industrial Property Journal (RPI)
Code	366
Information additional	3.6.6 Petitions for corrections and rectifications Table of the fee

Adaptation of the Nominative Element

If a discrepancy is observed between the text in the image of the combined or three-dimensional trademark and the declaration of the word part of the trademark, the change will be made ex officio, without the applicant's request. In such cases, the terms or expressions contained in the combined presentation of the sign prevail, as indicated in item 5.3 Correction of Bibliographic Data Ex officio.

In combined or three-dimensional trademarks, the "nominative element" field may be changed ex officio, so that negligible elements of the trademark, intended solely to inform data unrelated to the trademark set itself, are not indicated. Additional information on negligible elements can be found in item 5.9.1 General guidelines for analysis of distinctiveness, subitem "Elements of the Trademark Set", topic "Negligible Elements."

Withdrawal of the unregistrable part of the trademark in defense of one's rights

According to the INPI/PROC Opinion No 48/2003, if the applicant, in their defense, requests the withdrawal of the term or unregistrable element of sign in question, the possibility of changing the sign will be permitted if the following conditions are met:

- a) The withdrawal of the unregistrable element should not change the main characteristics of the sign originally required or give rise to the need to republish the application.

- b) The resulting sign should be formed by only the remaining elements of the mark originally requested, the addition or substitution of graphics or nominative elements not being allowed, nor any change that alters the meaning of an expression or image.

It is worth noting that the changes will be accepted only when requested by the user and may not include the addition of graphic or textual elements. Applications may be submitted in response to an act of INPI, third-party protest or on its own initiative and shall be accompanied by the image of the mark as altered, in cases of combined or figurative marks. Upon the withdrawal of the unregistrable element being promoted, the subsisting sign will be analyzed in light of the other prohibitions laid down in law.

Examples:

Original mark	Mark changed by request of the applicant	Decision
PÉ-DE-MOLEQUE	FOOT	The change cannot be accepted, since the removal of the phrase "DE-MOLEQUE" altered the main distinguishing feature of the required sign by modifying its meaning.
		Change will be accepted. The subsisting sign will be analyzed in light of other legal prohibitions.
		Change will be accepted. The subsisting sign will be analyzed in light of other legal prohibitions.
		Change will be accepted. However, the sign will be rejected in view of the infringement of item II of art. 124 of the LPI.

		The change cannot be accepted, since the replacement of the figurative element modifies the main distinctive feature of the sign applied for.

Formal demand in examination of applications containing a "coexistence agreement"

In examining applications involving coexistence agreements, the coexistence between the object marks of the agreement may be considered unfeasible, in view of the constitution of the signs. In these circumstances, a formal demand may be made for the applicant of the sign in question, to remove part of their mark, provided that the exclusion of such an element gives the resulting set sufficient distinctiveness in relation to the above mark(s) as per the guidelines presented in the previous section.

How to request a service	
Service:	Formal demand compliance
Code:	340
Additional information:	3.6.1 Petitions relating to compliance with formal demands Payment table

Formal demand on appeal and nullity

As understood by that contained in INPI/PROC Opinion No 48/2003, when examining an appeal against the rejection or partial nullity, the application or registration may be subject to a formal demand in the second administrative level of INPI, so that the applicant indicates whether they want to delete the unregistrable element of the sign. However, such a requirement is formulated only in cases in which the withdrawal of an element does not change the main distinctive features sign in question.

How to request a service	
Service:	Formal demand compliance
Code:	3016
Additional information:	3.6.1 Petitions relating to compliance with formal demands Payment table

9.2 Alteration related to classes and a specification of goods and services

Removal or restriction of goods or services from a registration or application for trademark registration is a modification that can be made at the user's request, through withdrawal of the petition or partial waiver, or ex officio, upon substantive examination of the request or in cases of partial expiry of the registration, observing the suitability of the goods or services to required the class and vice versa, being communicated to the holder.

Other requirements for class or specification change submitted by users will be accepted in the following circumstances:

- a) Class or specification changes due to necessary adjustments to generic specifications or including similar goods or services for illegal activities. In this case, when the change is substantial, it will be given due publicity, by republishing the process.
- b) Changes to specifications due to an item containing a geographical indication registered in Brazil or pending administrative review by the INPI. In this case, the application will be republished if the change is substantial.
- c) Restriction of the specification initially requested, including in cases that upon examination, show mark coexistence agreements. Such a restriction can be made in greater detail of goods or services that the symbol indicates/aims to designate. (e.g. "Clothing" for "sports clothes and soccer boots").
- d) Class alterations to adjust to the initially required specification.

Other class alteration requirements or specifications that change the scope presented in the filing of the application will not be accepted. It is worth noting that the expansion or alteration of the specification of goods or services in an application or registration may harm others, transforming a non-preventive precedent into a legal impediment.

The treatment to be given to the application will depend on the nature of the application used to request it, and to publicize the decision not to accept it.

The procedure set out above does not mean that there is a possible deletion of the items specifying when there will be an approval of

the application, in view of its suitability for the claimed classes. Republication occurs in cases of potential loss of priority.

9.3 Alteration related to the classification of figurative elements

The International Classification of the Figurative Elements of Vienna (CFE) indicated by the applicant may be changed ex officio in order to make it more precise in terms of the description of the elements that make up the trademark, as established in the sole paragraph of art. 14 of INPI Ordinance No. 8/2022.

9.4 Change of name, company name, headquarters or address

The applicant or right-holder may, at any time, request a change of their name, headquarters or address from INPI by specific petition, according to the guidelines in section 3. How to make an application for registration or a trademark petition, and subsection 3.6.5 Petitions for annotations of ownership transfer, of limitations or encumbrances, or change of name, address and headquarters.

When there is a change of corporate name along with the headquarters/address, an annotation of the changes must be requested upon payment of a single GRU and a submission of the form containing all the changes.

To change registration information for their name/company name, headquarters or address, the applicant should note the following:

- a) The name and address that appears in the e-INPI register, at the time of Union Payment Form (GRU) generation, which originated the application for trademark registration, will be the same name and address which appears in the application and in future possible records as well as certificates and official documents related to them.
- b) Applications or registrations that have been filed before the changes in the e-INPI system and GRU generation may only have the name, company name. Headquarters or address of the applicant or holder changed, by submitting a specific application and payment of fees.

When the changes refer to the name or company name of the applicant/holder, they must be presented officially and specific documents proving the change of name/company name, among these being the registration documents for the change of name/company name,

issued by the Board of Trade, or by civil registration of legal entities.

When the amendment refers to the address or registered office, updated articles of association or the document proving the change, which includes the new address, must be presented. In the case of a change of headquarters determined by the Prefecture, a list of processes to be changed, as well as attaching a copy of the document proving the change of address issued by the prefecture.

If there are any inconsistencies in the change request, a formal demand will be made, which must be complied with, within 60 (sixty) calendar days from the date of its publication in the RPI.

Annotations of the name/company name, registered office or address will be published in the RPI.

Multiple Petitions for Change of Name, Registered Office, and/or Address

Use of Data from Supporting Documentation

To use the party's actions, all bibliographic data contained in the supporting documentation (name and registered office) will be updated, even if the petition filed requests only a change to one of them.

Multiple Petitions Requesting Different Services in the Same Proceeding

If two or more petitions for change of name, registered office, or address of a single owner or group of joint owners are filed in the same proceeding, requesting the change of different bibliographic data (name and registered office, for example) and containing the same supporting documents, only one will be subject to review. All data will be duly changed, and the remaining petitions will be disregarded for lacking purpose.

Petitions requesting consecutive changes of name, registered office, or address

In the case of consecutive changes of name, registered office, or address of a holder or group of joint holders, these must be requested by filing a single petition. When, in the same case, multiple petitions requesting consecutive changes of name, registered office, or address are identified, all decisions will

be grouped together and included in the ruling of the most recent filing petition.

How to request a service	
Service:	Annotation of the change of name, headquarters or address
Code:	348
Additional information:	3.6.5 Petitions for annotations of ownership transfer, of limitations or encumbrances, or change of name, address and headquarters Payment table

When requesting a change of name, registered office, or address, the user must indicate on the form which processes will be affected by the change. Processes not indicated on the form will remain unchanged.

Change of name, registered office or address in processes under a co-ownership regime

In applications or registrations under a co-ownership system, it is possible to request a change in information regarding more than one co-owner or applicant in a single petition. It is also possible to indicate that the change affects more than one case, as long as the set of co-owners or applicants of the cases indicated in the petition is exactly the same. Therefore, to change the name, registered office, or address of cases with different sets of co-owners, it will be necessary to submit more than one petition, as in the following example, which requests annotation of the change in company **A** 's data:

Co-owners	Processes affected	Petition for data change
Company A	Records No. 1, 4 and 7	Petition No. 1111
Companies A and B	Records No. 2 and 3	Petition No. 2222
Companies A, B and C	Records No. 5, 8 and 9	Petition No. 3333

9.5 Limitation or liens

Limitations or liens are restrictions on the enjoyment of rights, and when imposed on the application or registration of marks must be recorded by INPI, as provided for in Article 136, item II of the LPI.

Annotations of limitation or liens produce effects on third parties from the date of their publication.

How to request a service	
Service:	Annotation of a limitation or liens
Code:	380
Additional information:	3.6.5 Petitions for annotations of ownership transfer, of limitations or encumbrances, or change of name, address and headquarters Payment table

9.6 Highly renowned

9.6.1 Annotation of high renowned

Chapter XIII of INPI Ordinance No. 8/2022 establishes that applications for recognition of a highly renowned mark will be made autonomously and not incidental, as a matter of defense. Therefore, the trademark owner must request such recognition from INPI through a specific application, which must be filed with the registration of the sign of the mark that they consider to be highly renowned, accompanied with evidence in Portuguese, the value of which is fixed in INPI Table.

With regard to the evidence of highly renowned status documents, these are described in art. 66 of the aforementioned Ordinance, and market research is highly recommended by the Special Committee.

Once recognized as being highly renowned, INPI will make the annotation in the registration of the mark giving rise to such a status. This annotation lasts for 10 years, except in the following assumptions:

- Extinction of the registration of the mark is subject to recognition of being highly renowned;
- Reform of the decision by which the recognition of being highly renowned was concluded, due to the provisions of art. 70 of INPI Ordinance No. 8/2022.

At the end of the period established in the sole paragraph of art. 8 of the above-mentioned resolution, in order to continue enjoying the recognition provided for in art. 125 of the LPI, the trademark owner must submit a new INPI recognition application for the highly renowned mark in question, at any time after the end of the term of recognition for being highly renowned, but may also do so from the last year of its validity.

How to request a service	
Service:	Highly renowned recognition request
Code:	393
Service:	Demonstration based on high renown
Code:	361
Service:	Appeal on the grounds of being highly renowned
Code:	362
Additional information:	3.7.9 Petitions relating to being highly renowned Resolution No. 107/2013 of 19/08/2013 Payment table

9.6.2 Highly renowned trademark certificate

The highly reputed trademark certificate is a document that proves the recognition of the highly reputed status of a trademark under Article 125 of the LPI.

When the petition for recognition of a highly renowned trademark is granted, or the decision to reject it is reversed, a certificate will be issued which will include the **trademark** , the **registration number** in which recognition was requested, the **date of recognition** and the **date of its expiration**.



REPÚBLICA FEDERATIVA DO BRASIL
Ministério do Desenvolvimento, Indústria, Comércio e Serviços
Instituto Nacional da Propriedade Industrial
Diretoria de Marcas, Desenhos Industriais e Indicações Geográficas



Certificado de Marca de Alto Renome

Proteção especial concedida à marca registrada sob o número 123456789, nos termos do artigo 125 da Lei da Propriedade Industrial, regulamentado pela Portaria INPI/PR nº 08/2022.

Data do reconhecimento: dd/mm/aaaa

Fim da vigência: dd/mm/aaaa

Marca / Imagem da marca

Rio de Janeiro, data da emissão

Assinatura do Diretor(a)
Nome do Diretor(a)

Diretor(a) de Marcas, Indicações Geográficas e Desenhos Industriais

The highly reputable trademark certificate is issued exclusively in digital format. Certificates are issued using an electronic

signature issued by a Certifying Authority, in accordance with standards established by the Brazilian Public Key Infrastructure (ICP-Brasil). Certificates can be accessed through the INPI portal, as instructed in item "e" of item 3.10.2 Search on the basis of trademarks.

9.6.3 Reissuance of the highly renowned trademark certificate

The highly renowned trademark certificate will be reissued in cases of inaccurate bibliographic data due to an error or omission by the INPI. The new certificate will replace the previously incorrect certificate.

How to request the service	
Service	Correction due to publication error in the Industrial Property Journal (RPI)
Code	366
Information additional	3.6.6 Petitions for corrections and rectifications Table of Fees

10. Other services

10.1 Consultations

10.1.1 Consulting the Goods and Services Classification Commission

Each application for trademark registration must contain a specification of goods and services in accordance with the current edition of the International Classification of Goods and Services NICE (Chapter III of INPI Ordinance No. 8/2022).

The Nice tables for classification of goods and services and their auxiliary lists are relatively extensive, although not exhaustive. Therefore, it is likely that the user will find an example of goods and services that the required mark aims to indicate, in the ranking lists. Classification lists are available on the INPI website.

However, after researching the classification lists, if the desired goods or services are not found, the user can, through payment of a specific fee and completion of the corresponding form, submit an appeal to the Goods and Services Classification Committee (CCPS) of the INPI of the Directorate of Trademarks, Industrial Designs and Geographical Indications, in order to ascertain the classes in which the required goods or services are allocated.

After analyzing the consultation, CCPS will issue a response to be published in the RPI.

The answer can only be viewed by the owner himself or by his/her attorney, by accessing e-INPI (search module) services with a login and password. Therefore, the user must perform a search for the service protocol number or the Collection Guide Union (GRU) used for the payment of the same.

How to request a service	
Service:	Consulting the Goods and Services Classification Committee of the INPI
Code:	357
Additional information:	3.6.12 Petitions concerning the Classification Committee Payment table

10.1.2 Consulting the Figurative Elements Classification Committee

According to the provisions of Chapter III of INPI Ordinance No. 8/2022, registration applications for figurative, combined or three-dimensional trademarks, must contain at least one (1) and a

maximum of five (5) codes for figurative elements in accordance with the edition of the Vienna International Classification prevailing in Brazil at the time of submission.

If the user encounters difficulties in classifying the figurative element of their figurative, combined or three-dimensional mark in accordance with the Vienna Classification (CFE 4), available on the website of the institute, they may request that INPI advise the most appropriate classification.

For this it is necessary to submit a consultation petition to the Classification of Figurative Elements Committee, to which should be attached the figurative element that the user wants to classify.

The answer can only be viewed by the owner himself or by his/her attorney, by accessing e-INPI services (search module in the Trademark database) services with login and password to access. Therefore, the user must perform a search for the service protocol number or the Collection Guide Union (GRU) used for the payment of the same.

How to request a service	
Service:	Consulting the Classification of Figurative Elements Committee%
Code:	358
Additional information:	3.6.12 Petitions concerning the Classification Committee Payment table

10.2 Certificates

10.2.1 Certificate of Actions Related to the Proceeding

The certificate of actions related to the proceeding is an official document issued by INPI, which presents the history of decisions in the process.

The certificate may be requested at any time upon payment of the respective fee, form completion not being required. The Protocol is provided upon of payment of the Union Payment Form (GRU), according to instructions found in section 3.8 Services exempt from form.

The certificate of acts related to the process may only be obtained by the service requester, by accessing the e-INPI services (Trademark database search module) with a login and password. To

do so, the user must search for the service protocol number or the Federal Revenue Collection Guide (GRU) used for payment.

The historic decisions in the process can also be consulted at any time, free of charge, on the INPI website, by searching on the basis of trademarks.

How to request a service	
Service:	Certificate of acts relating to the process
Code:	350
Additional information:	3.8 Services exempt from form Payment table

10.2.2 Search Certificate

A search certificate may be requested out in two ways: by class of goods or services or specific holder.

a) Search certificate by class of good or service:

Although INPI also offers a free form of search on its website, it is possible to request an official search certificate, issued by the agency. This is a paid service and must be requested through a specific petition (Trademark Search Certificate by Goods or Services Classes) under service code 377 of the Payment Table, which is available on the Institute's website.

The search certificate by classes of goods or services is intended to demonstrate, from the mark informed by the applicant for the certificate, the group of the same or similar trademarks that are already published or registered with INPI in the stated class up until the date of application search.

Upon completion of the search, whether free or paid, it is essential that the applicant has knowledge of existing trademarks that can be considered a potential hindrance to the future registration of the desired mark.

b) Certificate of Search by holder

Certificates of search by holder aim to present a report of all the marks in the INPI database in the name of the owner stated in the search request.

Although INPI also offers a free form of search on its website, it is possible to request an official search certificate, issued by the agency. This service is paid and must be requested by a specific application (Search Certificate of Mark by Holder) under service code 347 Payment Table, which is available on the Institute website.

Instructions for filing a paper search certificate request can be found in sections 3.6.11 Petitions relating to search certificates and official copies and 3.5.3 Specific observations for the electronic petition form.

The search certificates issued by the Directorate of Trademarks, Industrial Designs and Geographical Indications may only be obtained by the holder or his/her attorney, by accessing the e-INPI services (Trademark database search module) with a login and password. Therefore, the user must perform a search for the service protocol number or the Collection Guide Union (GRU) used for the payment of the same. Notice of the issuance of the certificate is published in the RPI.

How to request a service	
Service:	Trademark search certificate by goods or services classes
Code:	377
Service:	Trademark Search certificate by Holder
Code:	347
Additional information:	3.6.11 Petitions relative to search certificates and official copy 3.5.3 Specific observations for electronic petition form Payment table

10.3 Rectification of bibliographic data

The user may require the rectification of incorrect data whether by failure of the user himself or INPI.

10.3.1 Rectification of data due to user failure

If the user has made error filling in the form that has resulted in the publication of incorrect data, the user must submit a petition called Data Correction in the process due to interested party failure, under code 378, of the Fees Table.

This petition is not exempt from payment.

For user information, a note will be published in the RPI on whether the petition was granted or rejected.

How to request a service	
Service:	Data correction in the process due to failure of an interested party
Code:	378
Additional information:	3.6.6 Petitions concerning corrections and rectifications Payment table

10.3.2 Rectification of data due to INPI failure

In case of failure or inconsistency in publishing your application or registration on the RPI, the user may submit a petition for Rectification due to a publication error in the Industrial Property Journal (RPI), under code 366 of the Fees Table.

This petition is exempt from payment and should be used only in cases where the fault is, in fact, that of INPI.

A note regarding the acceptance or rejection of the request in the petition will be published in the RPI for the user's information.

How to request a service	
Service:	Correction due to publication error in the Industrial Property Journal (RPI)
Code:	366
Additional information:	3.6.6 Petitions concerning corrections and rectifications Payment table

10.4 Copying Documents

10.4.1 Official Copy

Any interested party may request an official copy of a trademark application or registration, through payment and presentation of specific petition under the code 352 of the Fees Table.

How to request a service	
Service:	Official Copy
Code:	352
Additional information:	3.6.11 Petitions relative to search certificates and official copy Payment table

10.4.2 Request for photocopying/scanning of documents

Any interested party may request an official copy of a trademark application or registration by paying a fee and submitting specific petitions under codes 824 (simple copy) and 825 (certified copy) of the Fee Schedule.

When requesting copies of a paper application, the document in question will be checked to see if it is digitized. If not, it will be forwarded for digitization.

If the number of pages of the document to be made available exceeds 4 (four), the user will be informed of the additional amount to be paid through the "Fee Supplement" service (code 800). In these cases, a petition for Rectification due to publication error in the RPI (code 366) must be filed, attaching proof of payment of the supplement.

If the document contains personal data that does not belong to the person requesting the copy, the person must submit a "Declaration of Purpose of Access to Reprographic Copies," according to the template attached to this manual, in compliance with Law No. 13,709/2018 (General Personal Data Protection Law). If this declaration is not attached to the Copy Request, the user will be informed of the need for its submission by filing a Rectification Request due to Publication Error in the RPI (code 366).

The deadline for completing the fee corresponding to additional pages and for submitting the INPI communication is set. The documents will only be made available after any pending issues have been resolved.

The applicant may access the INPI copies and communications using a login and password to access the e-INPI services (Trademarks database search module). The user must search by the service protocol number or the Federal Revenue Collection Guide (GRU) used for payment.

How to request a service	
Service:	Simple reprographic copying - Mark
Code:	824
Service:	Certified reprographic copying - Mark
Code:	825
Additional information:	3.6.13 Petitions relating to other units of INPI Payment table

10.5 Search for marks

Free search using the INPI website

INPI has an electronic database with information on applications and trademark registrations, which can be accessed through the website of the Institute on the Internet for free searches conducted by the user. Further guidance on how to proceed in this search mode can be obtained in the section 3.10.2 Search on the basis of trademarks.

Viewing electronic or scanned documents

By choosing to enter the login and password to access services e-INPI during the search, the user can view applications and electronic or scanned documents filed with the applications and records, as described in item 3.10.2 Search on the basis of trademarks.

Previous search requested to INPI

There is also a paid search service, provided officially by INPI, which may be requested by petition with the service code 377 (Trademark Search Certificate by Goods or Services classes).

How to request a service	
Service:	Search Certificate by Trademark Class
Code:	377
Additional information:	3.6.11 Petitions relative to search certificates and official copy Payment table

11 Madrid Protocol

The Madrid Protocol is an international treaty that allows trademarks to be filed and registered in more than 120 countries. The treaty, administered by the World Intellectual Property Organization (WIPO), was adopted on June 27, 1989.

Brazil's instrument of accession to the Madrid Protocol was signed by the President of the Republic on June 25, 2019, and was deposited with WIPO on July 2, 2019. The Protocol enters into force three months after accession, under the terms of art. 14(4)(b) of the treaty.

This means that, as of October 2, 2019, Brazil will be able to act as both the Administration of origin and the designated Contracting Party, submitting and receiving international applications under the Protocol. The procedures adopted by the INPI in both situations are detailed in this chapter of the Trademark Manual.

For further details on the general aspects of the procedures, such as the substantive examination, the applicant should consult other relevant parts of the Trademark Manual.

The following rules apply to the examination of international applications:

- **The Madrid Protocol on the International Registration of Marks**

The Madrid Protocol outlines the general procedures for processing international applications and defines eligibility criteria for filing via this method. The Portuguese version of the treaty can be accessed in the References.

- **The Common Regulations relating to the Madrid Protocol**

The Common Regulations standardize and complement the Madrid Protocol through operational rules that include the form, conditions, and deadlines for carrying out acts. The Portuguese version of the Common Regulations can be accessed in the References.

- **Legislative Decree No. 98/2019**

Legislative Decree No. 98/2019 transforms the Madrid Protocol and the Common Regulations into national legal norms and specifies, among others, declarations concerning deadlines, individual fees and languages applicable to international applications and registrations .

- **INPI/PR Resolution No. 247/2019**

INPI/PR Resolution No. 247/2019 provides for trademark registration under the Madrid Protocol and conforms practices to the context of domestic legislation.

- **Law No. 9,279 of May 14, 1996**

The Industrial Property Law (LPI) regulates rights and obligations relating to Industrial Property in Brazil.

11.1 Overview

The Madrid Protocol aims to make it easier for applicants to file and administer trademark applications in multiple countries through centralized management of these registrations. Applicants can apply for trademark protection in multiple countries by filing a single international application form, in a single language, and with centralized payment of fees.

To do so, interested parties submit an international trademark application to the International Bureau (IB), an entity administered by the World Intellectual Property Organization (WIPO).

The international application must be submitted to the SI through an Office of origin (in Brazil, the INPI) and must be based on one or more active applications or registrations with the Office of origin. The international application may only cover goods and services within the scope of this/these basic application(s) or registration(s). In the international application, the holders must designate, that is, indicate the Contracting Parties for which they wish to obtain extension of trademark protection (designated Contracting Parties).

The Office of origin will certify the international application, during which the information contained in the Office's database is compared with information provided by the applicants. After the Office of Origin receives the international application and makes a decision on its compliance, the application becomes an international registration, which is forwarded to the designated Contracting Parties. It should be noted that, although the international registration allows for the centralized management of information related to the designated Contracting Parties, it has no effect on them.

From that moment on, the designation is received by the designated Contracting Parties and must be analyzed as a request filed directly with the Administrations of these parties, based on local legislation and within the deadline stipulated by the Protocol. The designation may be granted or denied after analysis by the local Administration. If no refusal is received within the stipulated deadline, the request is considered tacitly granted.

Once the mark has been registered in the International Register, a collection of data relating to international registrations maintained by the SI, the holder of this registration may, at any time, request the designation of other Contracting Parties by means of a subsequent designation.

In the context of the Protocol, the INPI may act: (a) as the Administration of origin, receiving and forwarding international applications to the SI; or (b) as the designated Contracting Party, when the holder of an international registration requests that the trademark be protected in Brazil.

11.2 International orders originating in Brazil

11.2.1 How to file an international application

International applications must be based on an application or registration filed directly with the INPI. Therefore, to file an international application with the INPI, the applicant must have a national process, which will serve as the base application or registration for the international application.

It is worth noting that the applicant who wishes to apply for international trademark registration must comply with the provisions of item 11.2.2.1 Legitimacy to file an international application with the INPI.

According to INPI/PR Resolution No. 247/2019, any petition related to trademark registration under the Madrid Protocol will be made **exclusively by electronic means (e-Marcas system), except in situations where the prolonged unavailability of the electronic means causes significant harm to the preservation of rights.**

In this section, you can find the information necessary to file international applications and the protocol for petitions related to these applications, as well as guidance on their monitoring.

11.2.1.1 Registration with e-INPI

The first step in filing an international trademark application or a petition related to such an application is to register with the e-INPI system, which provides access to the services of the Directorate of Trademarks, Industrial Designs and Geographical Indications.

This registration is mandatory for any individual or legal entity seeking services from the INPI and applies to all of the Institute's departments. The interested party, their attorney, legal representative, or industrial property agent (API) can register an electronic ID, consisting of a login and password, to authenticate their access to the system.

Detailed information about registration in the e-INPI system can be accessed in item 3.1 Registration in e-INPI.

11.2.1.2 Payments

The applicant of an international application must pay fees to both the INPI and the International Bureau.

Payments to the International Bureau

Regarding payments due to the International Bureau, it is important to note that the applicant of the international application is responsible for calculating the amount to be paid, as well as completing the appropriate forms and providing information on the payment method. Any procedures related to these payments must be carried out with the International Bureau itself.

It is recommended that the applicant pay the fees to the International Bureau before filing an international application through the INPI, in order to avoid notifications of irregularities regarding payment identified by the International Bureau.

For an overview of the basic, complementary, supplementary and individual fees, the applicant should consult the WIPO Fee Schedule, available on the website:

<https://www.wipo.int/madrid/en/fees/sched.html> (English)

<https://www.wipo.int/madrid/es/fees/sched.html> (Spanish)

It is important to note that all fees due to WIPO must be paid in Swiss francs. The International Bureau also provides a Fee Calculator, available on the website:

<https://www.wipo.int/madrid/en/fees/calculator.jsp> (English)

<https://www.wipo.int/madrid/es/fees/calculator.jsp> (Spanish)

The Fee Calculator results are based on the information the applicant provides (such as indicating that the mark is colored, for example) and the WIPO Fee Schedule in effect at the time the estimate is generated. Therefore, for the most accurate estimate, it is recommended to consult the Fee Calculator immediately before submitting an application.

The fees due in connection with an international trademark application under the Madrid Protocol include:

- A basic remuneration;
- A supplementary remuneration for each designated Contracting Party;
- When there are more than three classes of goods and services, a supplementary fee for each additional class; and
- An individual remuneration for the designated Contracting Parties who have chosen to receive it, in lieu of the supplementary and additional remuneration.

Under Article 8(7) of the Madrid Protocol, designated Contracting Parties may opt to receive, instead of a portion of the supplementary and additional payments, an individual payment. To confirm whether a Contracting Party has opted for the individual payment and the amount of that payment, the list of Individual Payments, available on the website, should be consulted:

https://www.wipo.int/madrid/en/fees/ind_taxes.html (English)

https://www.wipo.int/madrid/es/fees/ind_taxes.html (Spanish)

Failure to pay the fees in full will result in the issuance of a notice of irregularity by the International Bureau. The notice will contain a deadline for the applicant to regularize the payment, otherwise the application will be considered abandoned.

Payments to INPI

The fee due to INPI refers to the service of certifying the international application and sending it to the International Bureau or to the processing of petitions relating to international applications.

Payments to INPI must be collected using the Federal Collection Guide (GRU).

The fee schedule for services provided by the Directorate of Trademarks, Industrial Designs and Geographical Indications is available on the INPI portal and users should consult it before filing an international registration application or petition related to such application, to learn about the costs of each service.

Issuance and payment of GRU:

After registering in the e-INPI system, the user must access the GRU module to generate the Union Collection Guide for the service requested from the Directorate of Trademarks, Industrial Designs and Geographical Indications.

In the case of issuing a GRU for the filing of an international trademark application (service code 3004), the file number of only one of the applications or registrations that will serve as the basis for the international application must be indicated. The remaining base applications or registrations, if any, must be indicated when completing the international application form in the e-Marcas system. The number of classes to be informed at the time of filing the international application must also be filled in.

In the case of issuing a GRU for other petitions related to an international application, the petition number corresponding to the filing of the international application must be indicated.

With the Union Collection Guide issued by the GRU system, the user must make the payment before sending the international application form or petitions related to that application, otherwise the application will be considered non-existent and the petitions unknown.

Detailed information on the issuance and payment of the GRU can be accessed in items 3.3 Issuance of the GRU and 3.4 Payment of the GRU.

11.2.1.3 Electronic petitioning via e-Marcas

Access to the electronic form

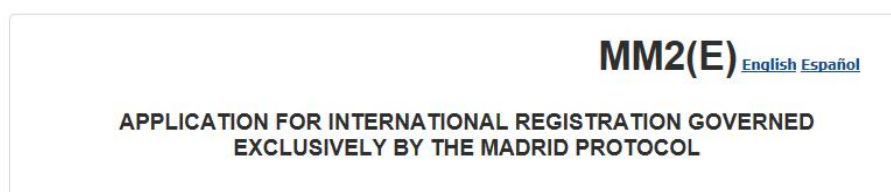
To access the electronic form, the user must log in to e-Marcas, enter their username and password, and click "Access." Once in the system, the user must enter the duly paid GRU number (also called "our number") in the corresponding field, then click "Next."

Detailed information on accessing the electronic form can be found in item 3.5.1 Accessing the electronic form.

Completing the electronic form

By entering the GRU number in the appropriate field, the user accesses the electronic international application form. The form migrates from the GRU not only information regarding the applicant and the attorney, if the latter is completing the form, but also some data related to the base application or registration indicated when the GRU was issued: case number, filing date, grant date, and trademark representation.

The electronic form " **Certification of International Application for Transmission to the International Bureau**" (**Article 2 - Madrid Protocol**) must be completed in Spanish or English. Users can change the language by clicking the icons in the upper right corner of the form, as shown below.



Instructions for completing the electronic form:

The electronic form for requesting an international trademark registration application is divided into modules:

Modules		Module refers to
Spanish	English	
Solicitud de Base o Registro de Base	Basic Application or Basic Registration	Pedido ou registro de base
Solicitante y Derecho a Presentar la Solicitud	Applicant and Entitlement to File	Depositors and legitimacy for deposit
Información de correspondencia de la OMPI	WIPO Correspondence Information	Address correspondence with WIPO
Mandatario ante la OMPI	WIPO Representative	Attorney at WIPO
Partes Contratantes Designadas	Designated Contracting Parties	Contracting Parties designated
Detalles de la marca internacional	International Mark Details	Detalhes da marca internacional
Productos y servicios	Goods and Services	Produtos e serviços
Prioridades	Priorities	Priorities
Cálculo de tasas	Fee Calculation	Calculation of remuneration

Solicitud de Base o Registro de Base / Basic Application or Basic Registration:

Information regarding the applications or registrations that will serve as the basis for the international application must be entered in this module.

Initially, the form will only contain the basic application or registration specified when the GRU was issued. The user can add new basic applications or registrations **by clicking the Add Basic Application or Registration button.**

BASIC APPLICATION OR BASIC REGISTRATION				
Add Basic Application or Registration				
Application / Registration number	Filing date	Registration date	Mark representation	File status
111111111 ✓	12/09/2016	24/07/2018		Registro de marca em vigor

When the user chooses to add new requests or base records, the system will open a new window for the user to enter the number of the process they wish to include as the basis for the international request.

In this new window, the user can also access the BuscaWeb system, through the link provided, in order to search for information about base applications or records before their inclusion in the international application.

To insert a new process into the list of requests and base records, the user must enter the process number in the Number / File number field and click Search / Search.

Add Basic Application or Registration

[Search Mark \(BuscaWeb\)](#)

File Number:

22222222

Search

Import

The following information regarding the reported process will be displayed for verification by the applicant:

Information		Information refers to
Spanish	English	
Número de la solicitud o registro de base	Application/Registration number	Case number
Fecha de la solicitud o registro de base	Filing date	Date of filing of the case
Fecha del registro de base	Registration date	Date of grant of registration, if applicable
Representación de la marca	Mark representation	Brand representation
Situación	File status	Process status
Titular	Holder	Process owner

After confirming the data relating to the chosen process, the user must use the Import button to add the informed process to the list of orders or base records.

✕

Add Basic Application or Registration

[Search Mark \(BuscaWeb\)](#)

File Number:

22222222

Search

Application / Registration number: 22222222

Filing date: 12/09/2016

Registration date: 24/07/2018

Mark representation: Allabaster construction

File status: Registro de marca em vigor

Holder: USUÁRIO TESTE



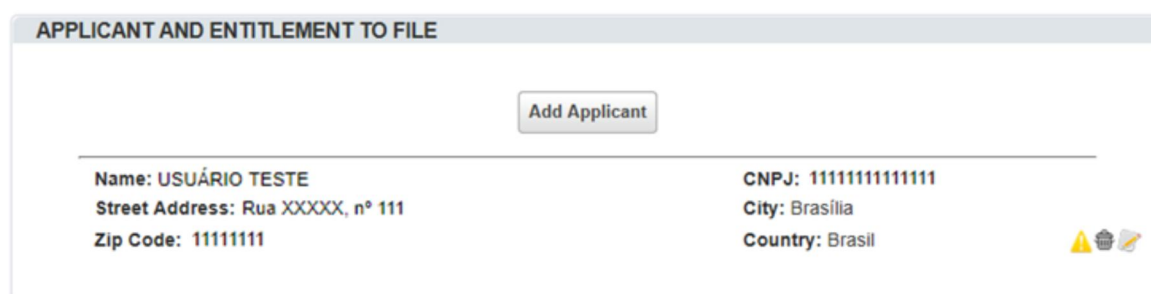
Import

Note: The process indicated in the issuance of the GRU cannot be excluded from the list of base applications and registrations. Furthermore, it is worth remembering that there must be correspondence between the mark presented in the international application and the mark(s) contained in the base application(s) or registration(s), in accordance with the certification requirements described in item 11.2.2.2 Certification Stage.

Solicitante and Derecho a Presentar la Solicitud / Applicant and Entitlement to File:

This module contains the data of the applicant(s) of the international application.

Only the data (Name, CPF/CNPJ, Address, City, Zip Code, and Country) of the applicant indicated at the time of generating the GRU will be loaded into the form, even if the base application or registration is under a co-ownership regime. This data can be changed, with the exception of the CPF/CNPJ, using the edit depositor data button, located in the lower right corner of the following image.



APPLICANT AND ENTITLEMENT TO FILE	
Add Applicant	
Name: USUÁRIO TESTE	CNPJ: 11111111111111
Street Address: Rua XXXXX, nº 111	City: Brasília
Zip Code: 11111111	Country: Brasil
⚠️ 🌐 ✎	

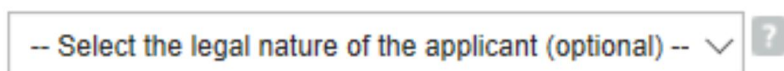
Please note that information regarding the applicant's legitimacy must be provided. To do so, complete the **"Entitlement to File" section** , accessed through the "Edit Applicant Data" button. The user must select an option that describes the applicant's legitimacy to file an international trademark application.

The form will also display the **Add Applicant button** so the user can add new applicants to the application, if applicable. The automatically uploaded data for new applicants can be edited, with the exception of their CPF/CNPJ.

The name(s) and address(es) of the applicant(s) indicated in the international application form must be identical to those appearing in the base application(s) or registration(s), as provided in item

11.2.2.2 Certification Stage, subitem **Name and Address of the Applicant** . It is recommended that the applicant carry out the necessary registration updates with the INPI, when applicable.

The user may optionally inform the legal nature of the applicant(s). To do so, select the nature from the drop-down list **Select the legal nature of the applicant (optional)** .



Completing the legal status information is not mandatory. However, it is recommended that the legal status information be completed when requested by the designated Contracting Parties, as in the case of the designation of the United States.

When the user chooses the legal nature Persona Natural / Natural person, the form will display the field Nacionalidad del Solicitante / Nationality of the applicant, in order to inform the applicant's nationality.



Nationality of the applicant:



If the user selects the legal nature " **Persona jurídica** " / " **Legal entity** ," the form will display the fields " **Forma jurídica de dicha persona** " / " **Legal nature of the legal entity** " and " **Estado (país) y, en su caso, unidad territorial dentro de ese Estado (cantón, provincia, estado, etc.)** , al amparo de cuya legislación se ha constituido dicha persona jurídica " / " **State (country) and, where applicable, territorial unit within that State (canton, province, state, etc.)** , under the law of which the said legal entity has been organized:



Legal nature of the legal entity:



State (country) and, where applicable, territorial unit within that State (canton, province, state, etc.), under the law of which the said legal entity has been organized:



state, etc.), under the law of which said legal entity has been organized," for the purpose of optionally filling in the legal nature and country or state of the applicant, respectively. It should be noted that information on the legal nature, when required by the designated Contracting Parties, must be completed for each applicant.

In the section "Right to **File Application / Entitlement to File**,"

Entitlement to File [?]

Choose the appropriate option

- ☒ The applicant is a national of Brazil.
- ☐ The applicant is domiciled in Brazil.
- ☐ The applicant has a real and effective industrial or commercial establishment in Brazil.

the user must select an option that describes the applicant's standing to file an international trademark application. In cases of joint ownership, this information must be provided for each joint owner separately. The rules contained in item 11.2.2.1 Standing to File an International Application with the INPI must be observed.

When selecting the option El Solicitante está domiciliado en Brasil / The applicant is domiciled in Brazil, if the depositor's address uploaded on the form is not in Brazil, the user must provide a residential address in Brazil.

Provide a Brazil domicile address if the address of the applicant is not in Brazil.

Street Address:

City:

Country:

Zip Code:

If the user selects the option **El Solicitante Tiene un Establecimiento Industrial o Comercial Real y Efectivo en Brasil** / The applicant has a real and effective industrial or commercial establishment in Brazil, if the address of the applicant uploaded

in the form is not in Brazil, the user must provide an address of a real and effective industrial or commercial establishment in Brazil.

Provide a Brazil address of the applicant's real and effective industrial or commercial establishment if the address of the applicant is not in Brazil.

Street Address:

City:

Country:

Zip Code:

WIPO Correspondence Information:

This module contains the information required for the International Bureau to send correspondence to the applicant. Completing this module is optional.

In the "Address for Correspondence" section, fields can be filled in if the user does not have a proxy and the correspondence address is different from the applicant's. If the user appoints a proxy for the international application, communications will be sent only to that proxy.

Address for correspondence

The fields below may be completed if you do not have a representative and the correspondence address differs to the applicant's address.

Street Address:

City:

Country:

Zip Code:

If the user wishes to choose other means of communication with the International Bureau, the fields in the topic Otros medios de comunicación / Other means of communication can be filled in with the requested information.

Other means of communication

Telephone:

Fax:

For communications between the International Bureau and the applicant to be conducted via email, the user must provide the email address in the "E-mail Address" field. If an email address is provided, all communications from the International Bureau related to the international application will be sent exclusively through this email address; therefore, no correspondence will be sent by other means. Therefore, it is recommended that the user keep their registration with the International Bureau up to date.

If you would prefer WIPO to contact you by e-mail fill in the following field.

E-mail address: 

It is also worth noting that the Madrid Portfolio Manager tool, made available by WIPO to international registration holders, uses the registered email address to group international registrations. Therefore, it is recommended that users provide the same email address for their international registrations. More information can be found on the WIPO website:

<https://www.wipo.int/madrid/en/manage/> (English)

<https://www.wipo.int/madrid/es/manage/> (Spanish)

Note: For electronic communication purposes, only one registered email address is permitted for each international application.

In the "**Preferred language for correspondence with WIPO**" section, users may indicate only one preferred language (English, French, or Spanish) for communications sent by the International Bureau.

If the user does not complete this field, communications will be forwarded by the International Bureau in the language in which the form was completed.

Preferred language for correspondence with WIPO

☐ English

☐ French

☐ Spanish

Mandatory before the WIPO / WIPO Representative:

This module contains the personal data and address of the attorney who will represent the applicant before the International Bureau. This optional module may only provide one attorney.

As mentioned in the WIPO Correspondence Information module, if the user provides information about a representative for the international application, communications will be sent only to that representative, based on the information provided in this module. Therefore, for communications with the applicant, the International Bureau will consider only the information entered in the representative field.

It is worth noting that, for communications to be made only by email, the user must provide the email address in the Dirección de correo electrónico / E-mail address field.

Note: if the user wishes to inform a proxy, they must fill in all fields (Name, CPF/CNPJ, Address, City, Country and Zip Code) for personal and address data.

WIPO REPRESENTATIVE
If a representative is appointed, all WIPO communications will be sent only to that representative.
Name:
Street Address:
City:
Country:
Zip Code:

Other means of communication.

Telephone:

Fax:

If you would prefer WIPO to contact you by e-mail fill in the following field.

E-mail address: 

Designated Contracting Parties:

This module must designate the Contracting Parties. Completion of this module is mandatory, with the indication of at least one designated Contracting Party.

In Añadir las partes contratantes / Add Contracting Parties, the user must select a Contracting Party and click on +Añadir / +Add to add new Contracting Parties.

DESIGNATED CONTRACTING PARTIES

(Information on the procedures in the national or regional Offices of the members of the Madrid System may be found at the following website: www.wipo.int/madrid/en/members/ipoffices_info.html. Additional information may be found in the information notices available at: www.wipo.int/madrid/en/notices/.) 

Add contracting parties:



 Add

☐ Designate member of the Madrid System non-existent in the list of options. [\[list of members\]](#)

DESIGNATED CONTRACTING PARTIES

(Information on the procedures in the national or regional Offices of the members of the Madrid System may be found at the following website: www.wipo.int/madrid/en/members/ipoffices_info.html. Additional information may be found in the information notices available at: www.wipo.int/madrid/en/notices/.) 

Add contracting parties:



 Add

	CA - Canada	
	CH - Switzerland	
	ZW - Zimbabwe	

☐ Designate member of the Madrid System non-existent in the list of options. [\[list of members\]](#)

Users are advised to seek specific information about trademark registration from each Contracting Party. The International Bureau provides general information regarding the Contracting Parties on

the following website:

<https://www.wipo.int/madrid/memberprofiles/>

The applicant must be aware of the following guidelines:

1. The designation of the European Union covers the following Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

If the European Union is designated, it is mandatory to indicate a second language, different from the one chosen in the international application, to the European Union Office.

Furthermore, if the applicant intends to claim seniority of an earlier trademark registered in or for a Member State of the European Union, the official form MM17 must be attached to the international application.

2. By designating Brunei Darussalam, Singapore, India, Ireland, Lesotho, Malawi, Mozambique, New Zealand, or the United Kingdom, the applicant represents that he intends that the mark be used by him, or with his consent, in that country in connection with the goods and services specified in the application.

3. The designation of the African Intellectual Property Organization covers the following Member States: Benin, Burkina Faso, Cameroon, Chad, Comoros, Congo, Ivory Coast, Gabon, Guinea, Guinea-Bissau, Equatorial Guinea, Mali, Mauritania, Niger, Central African Republic, Senegal and Togo.

4. If the United States is designated, it is mandatory to attach to the international application the official form MM18 containing the declaration of intent to use the mark required in this Contracting Party.

If the United States is designated, information regarding the applicant's legal status must be completed. Therefore, the items related to the "Select the legal nature of the applicant" section in the "Applicants and Entitlement to File" section of the electronic form must be completed.

5. Cuba and Japan have made a notification under Rule 34(3)(a) of the Common Regulations. Their respective individual remunerations are payable in two parts. Therefore, if Cuba or Japan is designated, only the first part of the applicable individual remuneration will be paid at the time of submission of this international application. The second part will only be payable if the Administration of the Contracting Party in question finds that the mark subject to the international registration meets the requirements for protection. The date on which the second part of the fee is due and the amount due will be notified to the holder of the international registration at a later stage.

6. Saint Martin (Dutch part) is a territorial entity formerly belonging to the Netherlands Antilles.

7. When BQ (Bonaire, Sint Eustatius and Saba) is designated, protection in these territories is granted automatically (see Information Notice No. 27/2011).

International Mark Details / International Mark Details:

This module contains data about the trademark of the international application. Completion of some fields in this module is mandatory.

In this part of the form, the non-editable fields Tipo de marca / Type of mark (presentation of the brand), Naturaleza de la marca / Kind of mark (nature of the brand), Representación de la marca / Mark representation and Elementos Verbales / Verbal Elements (nominative element of the brand) will be displayed.

INTERNATIONAL MARK DETAILS

Type of mark: ?

Figurative with word elements

Kind of mark: ?

Individual

Mark representation ?

Edit ?



Verbal elements ?

Allabaster construction

For figurative trademarks, the "Verbal Elements" field will not be displayed, as these do not have a verbal element. Since three-dimensional trademarks may occasionally have a verbal element, the "Verbal Elements" field will be displayed, when applicable. For combined and verbal trademarks, the "Verbal Elements" field will always be displayed, as these must have a verbal element.

The "Representation of the brand" field will display the brand image, which can be changed by the user. It should be noted that the international trademark must correspond to the trademark in the base application(s) or registration(s).

To edit this field, the user must observe the technical specifications regarding the transmission of images via the electronic form:

File format valid	JPG
Size minimum	945 x 945 pixels (8 cm x 8 cm)
Resolution minimum	300 dpi
Size file maximum	2 MB

More information about the brand's digital image can be found in item 3.5.2 Completing the electronic form.

In the "Transcription of the mark/Transliteration of the mark" field, the user must enter the transliteration of the mark. Transliteration should not be confused with translation. Transliteration is a phonetic representation of the mark in Latin characters, following the phonetics of the language of the international application. When the mark consists of or contains characters other than Latin characters, or numerals other than Arabic or Roman numerals, a transliteration into Latin characters or Arabic numerals must be provided.

Transliteration of the mark ?

Text of the mark in Latin characters

The "The words contained in the mark can be translated" checkbox should be selected when the user wants to provide a translation of the trademark that consists of or contains words that can be translated. Selecting this box will display the translation fields in English, French, and Spanish. The translation can be provided in any of these languages, regardless of the language used on the international application form, and may be submitted in more than one language.

☒ **The words contained in the mark can be translated. ?**

Translation in English

Translation in French

Translation in Spanish

The translation of the trademark may be requested by a designated Contracting Party, which is why it is recommended that the user seek information about the need to complete this field.

The "Descripción voluntaria"/"Voluntary description" field allows

the user to submit a voluntary description of the trademark. Like a translation, a voluntary description may be requested by a designated Contracting Party, such as the United States.

Voluntary description ?

When the user wishes to inform that he/she does not claim protection for certain elements of the brand, he/she must fill in the **Renunciation / Disclaimer** field.

Disclaimer ?

In international trademark applications with figurative presentation, the form will provide the checkbox La marca consiste apenas en un color o en una combinación de colores como tal, sin ningún elemento figurativo / The mark consists exclusively of a color or combination of colors as such, without any figurative element, in the item Marca de combinación de colores / Color combination Mark, which must be selected if the user wishes to inform that their trademark is composed exclusively of a color or a combination of colors, without any figurative element.

Color combination Mark

☐ **The mark consists exclusively of a colour or combination of colours as such, without any figurative element.**

When the user considers that the color(s) are an integral or essential part of the trademark, the "Color(s) claimed" field must be completed with the information on the color(s) claimed for the trademark. For certain designated Contracting Parties, the fact that the trademark is reproduced in color will automatically require that the color(s) be expressly claimed. It is advisable that users seeking protection for a color trademark complete this field.

Color(s) claimed ?

The Color(s) indication field can be used by the user to indicate, for each color, the main parts of the brand that are in that/those colors.

Color(s) indication ?

When the user selects the Color combination Mark item, they must claim the colors in the Color(s) claimed field. Likewise, when they select the Color(s) indication item, they must claim the colors in the Color(s) claimed field.

Goods and Services:

This module contains data on the specification of goods and services, including any restrictions to be applied in relation to any of the designated Contracting Parties. Completion of this module is mandatory.

The item Goods and services contained in the basic application(s)/registration(s) / base registration(s) [solely for reference] / Goods and services contained in the basic application(s)/registration(s) [for reference only] will inform the list of goods and services contained in the base request or registration.

GOODS AND SERVICES			
Goods and services contained in the basic application(s)/registration(s) [for reference only] ?			
Application/Registration Number	Classes	Goods and Services	Class Status ?
911612785	NCL (10) 42	Serviços científicos e tecnológicos, pesquisa e desenho relacionados a estes; serviços de análise industrial e pesquisa; concepção, projeto e desenvolvimento de hardware e software de computador; serviços jurídicos.	Registro de marca em vigor

It should be noted that the list of goods and services claimed in the international application may be more restricted than the goods and services listed in the base applications or registrations. However, it cannot be more comprehensive or contain different goods and services. This does not mean that exactly the same terms must be used. However, the terms used in the international application

must be equivalent to or within the scope of those used in the base application(s) or registration(s).

In the "Productos y servicios de la solicitud internacional/International Application goods and services" section, the user can freely fill out the good and service specifications for the international application. To do so, click "Añadir/Add," which will open a new window where the user can enter the class and goods and services specifications for the international application.

The user must pay attention to the number of classes added to the international application, as the number of classes must match that reported when the GRU was issued. This information will be available in the "Number of classes requested" field.

International Application goods and services ?
Number of classes required: 2

Add

In the Add goods and services window, the user can indicate, in the Class number field, the class number and, in the Indication of goods and services field, the goods and services, and then click on +Save.

Add goods and services



Class number: 42

Indication of goods and services ?

Legal services; Development of computer software.

Save

Cancel

It is important to emphasize that some guidelines must be observed in order to avoid the notification of possible irregularities related to the indication or classification of goods and services:

- The indicated items must be separated by a semicolon;
- Goods and services must be indicated in precise terms, preferably using words from the International Classification of Goods and Services for Trademark Registration (Nice Classification); and
- Class headings will be accepted by the International Bureau, but not necessarily by the Parties. The designation "all products of class 9", for example, will not be accepted by the International Bureau.

Further information on goods and services nominations accepted by the International Bureau can be found in the Madrid Goods & Services Manager (MGS) system database, accessible from the following websites:

<https://webaccess.wipo.int/mgs/> (Portuguese)

<https://webaccess.wipo.int/mgs/?lang=en> (English)

<https://webaccess.wipo.int/mgs/?lang=es> (Spanish)

The Goods and Services module also allows for the restriction of the specification of goods and services in relation to one or more designated Contracting Parties. To do so, under Limitation(s) of the List of Goods and Services, the user must select the checkbox "The applicant wishes to limit the list of goods and services in respect of one or more designated Contracting Parties."

Limitation(s) of the List of Goods and Services ?

☐ The applicant wishes to limit the list of goods and services in respect of one or more designated Contracting Parties.

When this option is selected, the user must select the designated Contracting Parties affected by the restriction and click on the Añadir / Add button.

Designated Contracting Parties affected by the limitation :

Next, you must indicate the classes and goods and services for which protection is sought in relation to the selected Contracting Parties. In the following example, protection is sought for legal services in the United States.

Add limitation

Designated Contracting Parties affected by the limitation :
US - United States of America
Add

US - United States of America
X

NCL(42)
☒

Save
Cancel

Observations:

A restriction on the list of goods and services is, in effect, a reduction in the scope of protection, in terms of the list of goods and services, in relation to a particular designated Contracting Party(ies).

It shall not be possible to indicate more than one restriction for the same designated Contracting Party.

Priorities:

This module contains data on the unionist priority(ies) claimed in the international application. Completion of this module is optional.

If there is an interest in claiming priority(s) unionista(s), the user must select the checkbox El solicitante desea reclamar la prioridad de una solicitud anterior/The applicant wishes to claim priority of an earlier filing.

PRIORITIES

☐ The applicant wishes to claim priority of an earlier filing. ?

When the claimed priority option is selected, the user must enter the priority(ies) data by clicking on the Añadir Prioridad / Add Priority button.

PRIORITIES

☒ The applicant wishes to claim priority of an earlier filing. ?

Filing Office	Filing Number	Filing Date	Classes Number	Good and Services
Add Priority				

You will need to enter the priority data in the fields Fecha de la solicitud / Filing Date (filing date), Número de la solicitud /

Filing Number (process number) and Oficina en que se efectuó la solicitud / Filing Office (the country or organization where the application was filed).

Add Priority

Filing Date

mm/dd/aaaa

Filing Number

Filing Office

When filling out the priority data, the user must indicate the classes and specification items related to the priority claimed in the section "The priority claimed relates to." If the user wants the priority to encompass all classes, they should use the "All classes" / "Mark all" button. If they wish to restrict the priority to certain classes and specification items, they should select the specific class(es) and indicate the specification items for which they wish to claim priority. Then, they should click the "Save" button.

Add Priority

Filing Date

mm/dd/aaaa

Filing Number

Filing Office

The priority claimed relates to:

☐ All Classes

☒

Classes Number

42

Good and Services

Legal services;

Save

It is possible to claim more than one priority in an international application, and the goods and services corresponding to each priority must be specified. It is also possible to claim priority for only some of the goods and services listed in the international application. In this case, the goods and services for which priority is claimed must be specified.

Note: The priority claim should not be confused with the seniority claim in the case of European Union designation.

Fee Calculation / Fee Calculation:

This module contains information on payment of fees to the International Bureau. Failure to complete payment information will result in notification of irregularities by the International Bureau.

It should be noted that the verification of amounts paid to the International Bureau will be carried out exclusively by this organization.

In this part of the form, under the topic Cuantía de las tasas / Amount of fees, the user must indicate the total amount of the fee due to the International Bureau in the item Gran total (francos suizos): / Grand total: (Swiss francs).

FEE CALCULATION

Amount of fees

The information concerning the International fees payable to WIPO can be consulted [here](#).

Grand total (Swiss francs)

Fee Calculation

To simulate the amount due, the user can use the WIPO Remuneration Calculator, available on the website:

www.wipo.int/madrid/en/fees/calculator.jsp (English)

www.wipo.int/madrid/es/fees/calculator.jsp (Spanish)

If the user wishes the International Bureau to debit the amount due for fees from a current account previously opened with WIPO, they must select the item Por la presente se autoriza a la Oficina Internacional a cargar el importe de las tasas a una cuenta corriente abierta en la Oficina Internacional / The International Bureau is hereby instructed to debit the required amount of fees from a current account opened with the International Bureau, informing the name of the current account holder, the current account number and the name of the person authorizing the debit.

☒ The International Bureau is hereby instructed to debit the required amount of fees from a current account opened with the International Bureau.

Holder of the account:

Account number:

Identity of the party giving instructions:

If you have not chosen to debit the amount due from a current account previously opened with WIPO, the user must inform, in the Identity of the party effecting the payment item of the Payment method topic, who is making the payment and select the chosen payment method.

Payment method

Identity of the party effecting the payment:

Select method of payment:

- ☐ Payment received and acknowledged by WIPO
- ☐ Payment made to WIPO bank account
- ☐ Payment made to WIPO postal account (within Europe only)

If the method Pago recibido y confirma por la OMPI / Payment received and acknowledged by WIPO is selected, the user must enter the receipt number provided by WIPO.

Select method of payment:

- ☒ Payment received and acknowledged by WIPO
- ☐ Payment made to WIPO bank account
- ☐ Payment made to WIPO postal account (within Europe only)

WIPO receipt number:

If you have selected the method Pago feito a la cuenta bancaria de la OMPI / Payment made to WIPO bank account or the method Pago feito

a la cuenta postal de la OMPI (solo en Europa) / Payment made to WIPO postal account (within Europe only), the user must inform the payment identification and the payment date of the fee for the international application.

Select method of payment:

- ☐ Payment received and acknowledged by WIPO
- ☒ Payment made to WIPO bank account
- ☐ Payment made to WIPO postal account (within Europe only)

Payment identification:

Payment date:

Furthermore, WIPO accepts payment by credit card for the following fees:

- Correction of irregularities reported by the International Bureau;
- Designation of additional Contracting Parties after registration of the international application; and
- Renewal of international registrations.

For more information, visit the following website:

<https://www.wipo.int/finance/en/madrid.html> (English)

<https://www.wipo.int/finance/es/madrid.html> (Spanish)

<https://www.wipo.int/finance/fr/madrid.html> (French)

At the end of the form, the user can send attached documents, such as the Declaration of Intent to Use the Trademark Form (MM18), the Seniority Claim Form (MM17) and the power of attorney with powers to file international applications.

11.2.2 Certification of the international application by the INPI

As the Office of origin, the INPI is responsible for certifying the international application, a step during which the information contained in the Institute's database is compared with the information contained in the international application form

completed by the applicants. Once the INPI has certified the application, the International Bureau will receive the international application and examine it for conformity. After a decision is made as to the conformity of the international application, it becomes an international registration, which is forwarded to the designated Contracting Parties.

The order certification stage comprises:

- Analysis of the depositor's legitimacy;
- Analysis of the certification requirements set forth in Rule 9(5) (d) of the Common Regulations;
- Notifying applicants of any inconsistencies in completing the form;
- The applicants' comments regarding the reported inconsistencies; and
- Certification of the application and submission to the International Bureau.

The effective payment of the fee for the certification service of the international application will be verified, and notification of inconsistencies for the completion of the fee in case of underpayment will be made within 60 (sixty) consecutive days from the date of publication in the Industrial Property Magazine, under penalty of the international application being considered non-existent, under the terms of the sole paragraph of art. 5 of INPI/PR Resolution No. 247/2019.

To complete the payment, a Federal Collection Guide (GRU) must be issued for the "complementary fee" service (code 800), referencing the previous GRU number. After payment of the supplement, proof of the supplementary payment must be submitted through the "compliance with a requirement resulting from a compliance review in a petition" service (code 382), corresponding to the corresponding international application petition.

The GRU for the supplement must be issued for the exact amount required to complete the fee established in the table in effect on the date the "compliance with a requirement resulting from a compliance review in a petition" service (code 382) is filed.

It should be noted that simply paying the GRU for the "complementary fee" service (code 800) is not sufficient to correct the inconsistency.

11.2.2.1 Legitimacy to file an international application with the INPI

Individuals or legal entities that are nationals or domiciled in Brazil, or that have a real and effective industrial or commercial establishment in the country, may apply for international trademark registration through the INPI, in accordance with art. 4 of INPI/PR Resolution No. 247/2019 and art. 2(1)(i) of the Madrid Protocol.

In addition to being a national, domiciled or having a real and effective industrial or commercial establishment in Brazil, the applicant must be the holder of registration(s) or application(s) for registration of national trademark(s), which will serve as the basis for the international application.

International applications may be filed under a co-ownership regime, provided that all co-owners are nationals, domiciled, or have a commercial or industrial establishment in Brazil. Likewise, all co-owners must be co-owners of the registration(s) or application(s) underlying the international application, as per Rule 8(2) of the Common Regulations of the Madrid Agreement and the Madrid Protocol.

11.2.2.2 Certification stage

Upon receiving the international application form, the INPI is responsible for certifying the international application. The INPI must sign and certify the international application in accordance with Article 3(1) of the Madrid Protocol, Rule 9(5)(d) of the Common Regulations, and Article 5 of INPI/PR Resolution No. 247/2019. Certification consists of checking the information provided by the applicant in the international application form against the information contained in the base application(s) or registration(s) at the time of certification.

An international application may be based on more than one base application or registration, regardless of their status, as long as they are active in the INPI database and the trademarks in all base applications or registrations are the same as those claimed in the international application. Applications or registrations that have not been filed, extinguished, canceled, or definitively annulled are considered active. In these cases, the verification of information for certification purposes will consider the information contained in all base applications or registrations indicated in the international application form.

The following certification requirements will be verified:

- i. the date of receipt** of the international application by INPI;
- ii. the number(s) and date(s)** of the application(s) or registration(s) underlying the international application;
- iii. correspondence between the holder(s)** of the basic application(s) or registration(s) and the applicant(s) of the international application;
- iv. the correspondence** between the **address(es)** of the applicant(s) and the address(es) appearing in the base application(s) or registration(s);
- v. the correspondence between the mark** presented in the international application and the mark(s) contained in the basic application(s) or registration(s);
- vi. the correspondence between the goods and services** claimed in the international application and those contained in the base application(s) or registration(s);
- vii. the correspondence between** the color indication in the international application and those contained in the basic application(s) or registration(s), if any;
- viii. the correspondence between the indication, if any, that the mark consists exclusively of a color or a combination of colors, without any figurative element** made in the international application and the image of the mark in the basic application(s) or registration(s);
- ix. the correspondence between any indication that the mark is three-dimensional, collective or certification** made in the international application and those contained in the base application(s) or registration(s); and
- x. the correspondence between the trademark color claim** in the base application(s) or registration(s) and the claim made in the international application, if any.

In relation to item vi above, it is highlighted that the list of goods and services claimed in the international application must be contained in the list(s) of goods and services of the base application(s) or registration(s), and identity between the lists is not necessary.

The INPI will verify only the certification requirements listed above, pursuant to Rule 9(5)(d) of the Common Regulations. The remaining elements of the international application, as well as

verification that the form is completed correctly, do not prevent the application from being certified and will be subject to review by the International Bureau.

The INPI will also not carry out any verification regarding payments made directly to the International Bureau, considering that the absence of payment by the applicant constitutes an irregularity to be verified by the International Bureau itself in its examination. When filing an international application, at least one Contracting Party must be designated. The Contracting Party in which the international application was received, that is, Brazil, cannot be designated. Subsequently, the holder of the international registration may make subsequent designations, which must be submitted directly to the International Bureau, in accordance with Article 11 of INPI/PR Resolution No. 247/2019 and Rule 24(2)(a) of the Common Regulations.

Once the certification requirements are met, INPI will transmit the international application to the International Bureau and notify the user by means of publication in the Industrial Property Journal.

Inconsistencies will be notified so that the applicant can make the necessary corrections if the certification requirements are not met. If the inconsistency notification is not responded to within 60 (sixty) calendar days, the international application will be considered non-existent. If the inconsistency notification is responded to and the necessary corrections are not made, certification of the international application will be denied.

Date of receipt

The date of international registration will be the date on which the application was filed with the INPI, provided that the international application is received by the International Bureau within 2 (two) months from that date, in accordance with art. 6 of INPI/PR Resolution No. 247/2019 and art. 3(4) of the Madrid Protocol. According to paragraph 2 of art. 6 cited, the certification and submission of the international application to the International Bureau within the aforementioned period will be guaranteed only when there are no inconsistencies in the filing, therefore recommending that the information subject to certification be checked by the applicant before submission to the INPI.

In cases where the receipt of the international application by the International Bureau occurs after the period of 2 (two) months, the filing date will be the date on which the international application is actually received by the International Bureau.

Numbers and dates of national applications and/or registrations

During certification, it will be verified whether the number(s) and date(s) of the base application(s) or registration(s) listed by the applicant in the international application form refer(s) to the same mark and to the same holder(s) indicated in the international application form.

Name and address of depositor

The name(s) and address(es) of the applicant(s) indicated in the international application form must be identical to those appearing in the base application(s) or registration(s). It is recommended that the applicant make the necessary registration updates with the INPI, where applicable, before submitting the international application and that the address(es) provided be sufficiently complete for postal communication by the International Bureau, if necessary.

In cases of joint ownership, the name and address of each joint owner must be indicated separately. Please note, however, that any communications sent by the International Bureau will be forwarded only to the first joint owner mentioned.

Mark Match

Upon certification, INPI will verify whether the mark contained in the international application corresponds to the mark contained in the base application(s) or registration(s) at the time INPI carries out the certification.

After certification, there is no impediment to changing the mark subject to the basic application(s) or registration(s) if necessary, such as in cases where an unregistrable portion of the mark is removed. In these cases, the INPI does not need to inform the International Bureau of the mark change.

Goods and Services

The goods and services listed in the international application must be contained in the base application(s) or registration(s), that is, the international application may cover all the goods and

services listed in the base application(s) or registration(s) or only part of those goods and services.

The expansion of the goods and services contained in the basic application(s) or registration(s) is not permitted, whether by the inclusion of new items, the use of more comprehensive terms in the international application, or the suppression, in the international application, of restrictive terms contained in the basic application(s) or registration(s).

It is not necessary that the terms used in the international application be identical to those found in the base application(s) or registration(s), as long as they are clear and the use of different terms does not result in expanding the scope of the goods and services of the base application(s) or registration(s).

When filing an international application, the applicant may restrict the list of goods and services in the international application to each designated Contracting Party, and may specify specific goods and services for each designated Contracting Party. This means that applicants may remove certain goods and services or use more detailed wording, provided that the main list of goods and services in the international application is not expanded.

Goods and services should be specified by class, and it is recommended to use terms found in the International Classification of Goods and Services for the Registration of Marks (Nice Classification) and the Madrid Goods and Services Manager (MGS Madrid Goods & Services Manager) to avoid the International Bureau sending notifications of irregularities regarding goods and services. For more information, see item 11.2.3.1 Irregularities in the international application.

Link to access the Nice Classification:

<https://www.wipo.int/classifications/nice/en/index.html> (English)

<https://www.wipo.int/classifications/nice/es/index.html> (Spanish)

Link to access MGS:

<https://webaccess.wipo.int/mgs/?lang=pt> (Portuguese)

<https://webaccess.wipo.int/mgs/?lang=en> (English)

<https://webaccess.wipo.int/mgs/?lang=es> (Spanish)

Colors

The indication that the international trademark is composed

exclusively of a color or combination of colors, without any figurative element, must be in accordance with the image of the trademark in the basic application or registration.

Furthermore, it will be verified whether the colors of the trademark image in the basic applications or registrations match the colors claimed in the international application. In the case of basic applications or registrations in which the trademark image is in black and white, the applicant may apply for the international application in color. It should be noted that the reverse is not possible; that is, if the basic applications or registrations refer to a colored trademark, the international application must contain a corresponding color description.

Example:

Trademark contained in the base application or registration	Trademark contained in the international application	Observations
		The color mark in the international application is considered corresponding for certification purposes, since the mark in the base application or registration is in black and white.

After receipt of the international application by the International Bureau, data relating to color claims, color indications and marks composed exclusively of a color or combination of colors may not be modified in the international registration.

Three-dimensional, collective or certification mark

The indications that it is a three-dimensional, collective or certification mark contained in the base applications or registrations must correspond to those made in the international application, and it is not possible to change the international registration after it has been sent to the International Bureau.

Additional information

The INPI will not send supporting documents attached to the International Bureau. The applicant must verify the need for and deadline for submitting documents directly to the Administrations of each designated Contracting Party.

Only the requirements listed above will be subject to certification by the INPI. However, in addition to the mandatory information, the International Bureau recommends that some information be provided in advance to avoid the need for future clarifications. This additional information includes:

Language indication for receiving communications:

On the international application form, the applicant may indicate a preferred language (English, Spanish, or French) for communications sent by the International Bureau. If the applicant does not complete the corresponding field on the form, the communications will be forwarded by the International Bureau in the language in which the form was completed.

Other information about the depositor(s):

When required by the designated Contracting Parties, the information concerning the depositor must be completed in field 2(f) of form MM2.

The Mark translation:

Translation of the trademark is optional, in accordance with Rule 9(4)(b)(iii) of the Common Regulations, and may be submitted in the language of the form, as well as in other languages accepted by the International Bureau, i.e., English, Spanish and French. It is intended for the Administration of the designated Contracting Parties, and its accuracy is not verified by the Administration of origin or the International Bureau.

The Mark transliteration:

Unlike translation, transliteration of the mark is compulsory, if applicable, according to Rule 9(4)(a)(xii) of the Common Regulations, and must be filed in the language in which the international application form was filed. Thus, when the mark subject of the international application is composed of or contains non-Latin characters or numbers expressed in non-Arabic or Roman numerals, the applicant must submit its transliteration into Latin

characters using the phonetic reference of the language in which the international application was filed.

Voluntary mark description:

The applicant may indicate a voluntary description of the trademark in the international application form.

It should be noted that the description of the brand will always be voluntary, since it is not a requirement demanded by the INPI for national brand applications or registrations.

It is recommended to complete the trademark description when this is required by the designated Contracting Parties.

Element of the mark for which protection is not claimed:

The applicant may indicate that it does not claim protection for certain elements of the mark. It should be noted, however, that the non-claim of protection included in the international application will be considered for all designated Contracting Parties.

Indication of second language - Designation of the European Union:

In cases where the European Union is designated, a second language must be indicated, different from the international application.

Seniority Claim - European Union Designation:

Furthermore, when designating the European Union, the applicant may submit the Seniority Claim by submitting the relevant form (MM17) under Rule 9(5)(g)(i) of the Common Regulations.

Statement of Intention to Use the Mark - United States Designation:

For cases in which the United States is indicated as the designated Contracting Party, the applicant must submit, together with the international application form (MM2), the Declaration of Intention to Use the mark Form (MM18), which must be in English if duly signed, in accordance with Rule 9(5)(f) of the Common Regulations.

Form MM18 can also be submitted directly to the International Bureau. Applicants should be aware of the deadline for submitting this document to the International Bureau.

If the Intention to Use Form is not properly completed or not submitted to the International Bureau, the United States designation may be disregarded in accordance with Rule 11(6)(c) of the Common Regulations.

Priority

The applicant may claim priority under Rule 9(4)(a)(iv) of the Common Regulations by stating, by means of a statement on the international application form: (1) the number of the previous application, (2) the date on which it was filed, (3) the Office in which registration was sought, and (4) where not applicable to all the goods and services in the international application, the corresponding goods and services.

All information regarding priority and any irregularities is the sole responsibility of the applicant, who must provide clarification directly to the International Bureau. It should be noted that priority data is not a requirement for certification of the international application.

Subject to the priority period provided for in Article 4 of the Paris Convention, priority may be constituted by base applications or registrations or, even, by trademark registration applications filed in other CUP signatory countries.

The applicant may list multiple priorities, indicating the goods and services corresponding to each priority date. In the case of priority for only some goods and services, the applicant must indicate the goods and services that correspond to the priority claimed.

During certification, the INPI will not require or review any documents proving priority. Likewise, no priority documents will be forwarded to the International Bureau.

If the International Bureau identifies irregularities related to priority dates, these will be disregarded and will not be included in the international registration. In such cases, the International Bureau will inform the applicant and the INPI.

11.2.2.3 Notification of inconsistencies in the international application

During certification, if inconsistencies are identified regarding the certification requirements listed in item 11.2.2.2 Certification Stage, the INPI will not make any changes ex officio. In such cases, the inconsistencies will be notified in the Industrial Property Journal so that the applicant can make the necessary corrections within 60 (sixty) consecutive days, under

penalty of the application being considered non-existent, pursuant to art. 5, sole paragraph, of INPI/PR Resolution No. 247/2019.

If the applicant identifies inconsistencies in his/her international application, he/she may also request the necessary corrections, even if he/she has not been notified of the inconsistency by the INPI.

In both cases, the applicant must use the service for fixing inconsistencies in certification of international applications (Rule 9 3005), make the necessary changes to the international application form (MM2), and forward it to INPI.

To use this service, the depositor must pay the corresponding GRU and inform the petition number of the international application to be corrected.

How to request the service	
Service	Correction of inconsistencies in certification of international applications (Rule 9 - Regulation of the Madrid Protocol)
Code	3005

It is reiterated that, if inconsistencies are identified during the certification stage, the 2 (two)-month deadline for the INPI to submit the international application to the International Bureau will not be guaranteed. Nevertheless, the INPI may certify and submit the international application within said deadline if the identified inconsistencies are corrected by the applicant in a timely manner. In this sense, the corrections presented may be analyzed before the end of the 60 (sixty) consecutive-day period referred to in art. 5, sole paragraph, of INPI/PR Resolution No. 247/2019.

When the applicant does not submit a correction of inconsistency and a new form within 60 (sixty) consecutive days after notification in the Industrial Property Magazine, the application will be considered non-existent, pursuant to the sole paragraph of art. 5 of INPI/PR Resolution No. 247/2019.

Once the notification of inconsistency has been responded to, if the appropriate corrections are not made, the certification of the international application will be denied.

INPI will not carry out any verification regarding payments made directly to the International Bureau, considering that the absence of payment by the applicant constitutes an irregularity to be verified by the International Bureau itself in its examination.

11.2.3 Examination by the International Bureau

After Certification, the INPI will transmit the international application to the International Bureau and notify the user by publishing it in the Industrial Property Journal. Receipt of the international application by the International Bureau initiates the Conformity Examination of the international registration.

At this stage, the International Bureau reviews the international application form and any attached forms (MM17 or MM18).

In cases where irregularities are identified, the International Bureau will communicate directly and simultaneously to the applicant and the INPI, regardless of who is responsible for correcting the irregularity.

It should be noted that, within the scope of the Madrid Protocol, the term "notify" is used to refer to the communication sent by the International Bureau to the party responsible for correcting the irregularity, reserving the term "inform" for the communication sent to the party not obliged to respond.

Depending on the type of irregularity identified by the International Bureau, if it is not corrected within the specified period, the application will be considered abandoned.

When there are no irregularities or after their correction, the International Bureau will promote the corresponding registration in the International Register, communicating the fact to the INPI, the designated parties and the depositors.

11.2.3.1 Irregularities in the international application

During the Compliance Examination for international registration carried out by the International Bureau, 3 (three) types of irregularities may be identified:

- i Irregularities in the Classification of Goods and Services;
- ii. Irregularities in the Indication of Goods and Services;
- iii. Other irregularities.

The "Examination Guide for the Classification of Goods and Services in International Applications" is available on the WIPO website. It aims to inform users and Administrations of origin about the International Bureau's practices, assist users in completing the international application form, and increase the predictability of the classification analysis performed by the International Bureau and the consistency of classification among the different Administrations of the Contracting Parties. This guide can be accessed at the following link:

https://www.wipo.int/madrid/en/how_to/file/file.html (English)

https://www.wipo.int/madrid/es/how_to/file/file.html (Spanish)

When communicating an irregularity to the INPI and the applicant, the International Bureau will specify the type of irregularity, the manner in which it will be remedied and the applicable deadline, in addition to indicating who is responsible for the correction (the INPI or the applicant).

According to Article 8 of INPI/PR Resolution No. 247/2019, when the applicant is notified directly by the International Bureau of an irregularity in the international application, it is the applicant's responsibility to make the necessary corrections to the International Bureau. **Therefore, it is emphasized that, in the event of an irregularity that can be corrected by either the applicant or the INPI, it is the applicant's responsibility to make the necessary corrections to the International Bureau.**

Irregularities in the Classification of Goods and Services

Irregularities in the Classification of Goods and Services are provided for in Rule 12 of the Common Regulations and concern the grouping of goods and services submitted to the International Bureau according to the appropriate classes of the International Classification of Goods and Services in force on the date of filing of the international application.

When the International Bureau understands that the listed goods and services are in classes other than those indicated in the international application, it will inform the applicant and notify the INPI, including any need to pay an additional amount, when the listed goods and services belong to a number of classes greater than that indicated in the international application, in accordance

with Rule 12 (1)(b) of the Common Regulations.

The final decision on the classification of goods and services in the international registration will be made by the International Bureau.

Reports of irregularities in the classification of goods and services must be submitted exclusively by the INPI within 3 (three) months of notification by the International Bureau, in accordance with Rule 12(2) of the Common Regulations. After 2 (two) months of communicating the irregularity to the INPI and the user, the International Bureau will send a reminder to ensure that the 3 (three) month deadline is observed.

It should be noted that **the INPI will not issue an official statement regarding irregularities in the classification of goods and services**. Upon being notified by the International Bureau, it will notify the applicant of the irregularity by publishing it in the Industrial Property Journal. If the applicant wishes to submit a statement to the International Bureau, through the INPI, requesting the necessary corrections or contesting the identified irregularity, it must submit it within 30 (thirty) calendar days from the date of publication of the notice in the Industrial Property Journal. Alternatively, the applicant may choose to make the additional payment for the inclusion of new classes, as determined by the International Bureau.

Reports of irregularities must be filed through the "Report on Irregularity in International Application Communicated by the International Bureau" service (3006). The user must provide the petition number of the corresponding international application and submit the petition in Spanish or English.

How to request the service	
Service	Statement on irregularity in international application communicated by the International Bureau
Code	3006

If the depositor wishes to make an additional payment for the inclusion of new classes, he/she must do so directly with the International Bureau.

If the applicant submits a response, the INPI will verify whether, after the correction, the goods and services are within the scope

of the base application(s) or registration(s). If so, the INPI will forward the applicant's response to the International Bureau as received and without assessing whether the items are correctly classified, and will inform the applicant by publication in the Industrial Property Journal. If the correction expands the scope of protection in relation to the base application(s) or registration(s), the applicant's response will not be forwarded to the International Bureau, and the applicant will be informed by publication in the Industrial Property Journal.

If the International Bureau informs of the need for payment of an additional amount and no response is sent to the International Bureau within the established period, said payment must be made within four (4) months from the date of notification of the irregularity. If payment is made, the International Bureau will register the mark in the classes and with the specifications it deems correct.

When a statement contesting the need to pay an additional amount is sent to the International Bureau and the latter confirms the need for additional payment by the depositor, said payment must be made within 3 (three) months from the date of communication of such confirmation by the International Bureau.

If there is no payment, the international application will be considered abandoned and, under Rule 12(7) and (8) of the Common Regulations, the applicant will be entitled to a refund of part of the amount paid, which must be requested from the International Bureau.

Irregularities in the Indication of Goods and Services

Irregularities in the Indication of goods and services are provided for in Rule 13 of the Common Regulations and refer to cases in which a given term in the international application is considered by the International Bureau to be too vague for classification purposes, incomprehensible or linguistically incorrect.

The final decision regarding the indication of goods and services in the international registration will be made by the International Bureau.

Notices of irregularities in the indication of goods and services must be submitted exclusively by the INPI within 3 (three) months of notification by the International Bureau, in accordance with Rule 13(2) of the Common Regulations. Please note that, unlike what occurs with irregularities in the classification of goods and services, in cases of irregularities related to the indication, the International Bureau will not send a reminder regarding the deadline for submission.

It should be noted that **the INPI will not issue an official statement regarding irregularities in the indication of goods and services** and, upon being notified by the International Bureau, will notify the applicant of the irregularity by publishing it in the Industrial Property Journal. If the applicant wishes to submit a statement to the International Bureau, through the INPI, promoting the necessary corrections or contesting the irregularity identified, it must submit it within 30 (thirty) calendar days from the date of publication of the communication in the Industrial Property Journal.

Reports of irregularities must be filed through the "Report on Irregularity in International Application Communicated by the International Bureau" service (**3006**). The user must provide the petition number of the corresponding international application and submit the petition in Spanish or English.

How to request the service	
Service	Statement on irregularity in international application communicated by the International Bureau
Code	3006

If the applicant submits a response, **the INPI will verify whether, after the correction, the goods and services are within the scope of the base application(s) or registration(s). If so, the INPI will forward the applicant's response to the International Bureau as received and without assessing whether the items are correctly classified,** and will inform the applicant by publication in the Industrial Property Journal. **If the correction expands the scope of protection in relation to the base application(s) or registration(s), the applicant's response will not be forwarded to the International Bureau,** and the applicant will be informed by

publication in the Industrial Property Journal.

If no response is submitted or if it is not accepted, the International Bureau will include an indication that the term is vague for classification purposes, incomprehensible, or linguistically incorrect, as applicable. The International Bureau will inform the INPI and the applicant.

When the submitted statement is accepted by the International Bureau, the term will be changed in the international registration.

In cases where the manifestation is acceptable, but results in inadequacy to the originally indicated class, the international application will follow the procedures for irregularities related to Classification, as per item 11.2.3.1 Irregularities in the international application, subitem Irregularities in the Classification of Goods and Services.

Other irregularities

In addition to irregularities related to the classification and indication of goods and services, the International Bureau may also report other irregularities in accordance with Rule 11 of the Common Regulations. These irregularities usually relate to ownership, brand image, payment of fees to the International Bureau, among others.

The deadline for correcting these irregularities is 3 (three) months, with no reminder from the International Bureau.

Some of these irregularities must be corrected directly by the applicant, without any need for intermediation by the INPI. In these cases, communication is made directly between the notified applicant and the International Bureau, with the INPI merely being informed of the irregularity.

Irregularities that must be corrected by the applicant:

Among the irregularities whose correction is the sole responsibility of the depositor, the following stand out:

- Incomplete information about the applicant or representative, but sufficient to identify and contact them;
- Insufficient data on the claimed priority;
- Illegible reproduction of the brand;
- Presence of color claims, when the reproduction of the trademark is not colored or there is no indication of the claimed colors;

- Lack of transliteration of the trademark, when it has non-Latin characters or non-Arabic numerals; and
- Fee to the International Bureau not paid or paid less.

Failure to correct the irregularities pointed out by the International Bureau implies, in accordance with Rule 11(2)(b) of the Common Regulations, the abandonment of the international application, with the exception of irregularities relating to the unionist priority(ies), which will not be considered by the International Bureau if the correction is not made within the stipulated period.

Irregularities that must be corrected by the INPI:

The irregularities that must be corrected by the INPI are listed in Rule 11(4) of the Common Regulations and refer to:

- Application not submitted on the correct official form or not signed by INPI;
- Irregularity regarding the applicant's legitimacy requirements, namely, "being a national, domiciled, or owning a commercial or industrial establishment in the country of origin",
- Absence or insufficiency of the following elements:
 - > Information that allows the applicant or attorney to be identified and that is sufficient to contact them;
 - > Indication of the applicant's relationship with the INPI for legitimacy purposes;
 - > Date and number of the base application(s) or registration(s);
 - > Reproduction of the brand;
 - > List of goods and services;
 - > Indications of the designated Contracting Parties; or
 - > Certification Statement by the Administration of origin.

Upon being notified by the International Bureau of other irregularities in the international application, the INPI will notify the applicant of the irregularity by publishing it in the Industrial Property Journal. If the applicant wishes to submit a statement to the INPI regarding the irregularity identified, it must submit it within 30 (thirty) calendar days from the date of publication of the communication in the Industrial Property Journal.

The INPI will evaluate the applicant's statement and send a response to the International Bureau. If no response is received within the

stipulated timeframe, a response will be sent to the International Bureau based on the information available in the INPI database.

Statements of irregularities must be filed through the "Statement of Irregularity in an International Application Communicated by the International Bureau" service (**3006**). The user must provide the petition number of the corresponding international application and submit the petition in English or Spanish.

How to request the service	
Service	Statement on irregularity in international application communicated by the International Bureau
Code	3006

When INPI sends a response to the International Bureau regarding irregularities that must be corrected by this institute, the applicant will be informed by means of publication in the Industrial Property Journal.

11.2.3.2 Registration of the Application by the International Bureau

When, after any notifications of irregularities, statements and adjustments, the International Bureau considers that the international application complies with the applicable requirements, it will certify its compliance, publish the international registration in the WIPO Gazette and communicate it to the INPI, the applicant and the designated Contracting Parties, in accordance with Rule 14(1) of the Common Regulations.

The International Bureau will send the certificate of international registration in the language of the international application directly to the holder.

Upon receiving communication from the International Bureau, INPI will update its database with the international registration number.

11.2.3.3 Examination by the Administrations of the designated Contracting Parties

Upon receipt of notification of designation in an international registration, the Administration of the designated Contracting Party shall examine the mark on the basis of its legislation and may refuse protection in its territory or grant it in whole or in part.

11.2.4 Dependency period

11.2.4.1 Termination of the effects of the base application or registration

According to art. 6(3) and (4) of the Madrid Protocol, during the period of 5 (five) years from the date of the international registration, changes in the status of the basic application(s) or registration(s) that totally or partially cease to have effect affect the international registration and must be communicated to the International Bureau.

Thus, during this period, under the terms of art. 9 of the INPI/PR Resolution No. 247/2019, INPI will inform the International Bureau and request cancellation of the international registration in the following cases:

- Final filing of the base application;
- Archiving of the basic application for withdrawal, in whole or in part;
- Rejection of the basic application without filing an appeal;
- Rejection of the basic application, maintained on appeal;
- Partial approval of the basic request, without filing an appeal;
- Partial granting of the basic request, maintained at the appeal stage;
- Cancellation of base registration;
- Archiving or cancellation of the base application or registration, in whole or in part, without filing an appeal;
- Archiving or cancellation of the base application or registration, in whole or in part, maintained at the appeal stage;
- Termination of the base registration due to the expiration of the validity period, if not extended;
- Extinction of the base registration by total or partial waiver;
- Extinction of the base registration due to expiration, without filing an appeal;
- Extinction of the base registration due to expiration, maintained on appeal;
- Extinction of the base registration due to non-compliance with the provisions of art. 217.

Proceedings initiated during the dependency period and completed after this period that totally or partially cease the effects of the base application(s) or registration(s) will also affect the

international registration. Therefore, in cases where there is an administrative or judicial proceeding initiated during the dependency period but not completed before the end of this period and that may result in the cessation of the effects of the base application(s) or registration(s), the INPI will inform the International Bureau of the existence of this proceeding, as well as inform the final status of the base application(s) or registration(s) after their definitive completion, requesting cancellation of the international registration, where applicable.

In this sense, at the end of the dependency period, the INPI will inform the International Bureau, for example, of any rejection or partial approval pending an administrative appeal, legal action or administrative nullity process, informing the final result of these procedures at a later date and requesting the cancellation of the international registration only when applicable.

Cancellation of the international registration will also be requested in cases where, having initiated an administrative or judicial procedure and not concluded during the period of dependency, the holder of the international registration withdraws or renounces the base application or registration after the period of dependency.

Cancellation of international registration will be requested from the International Bureau only when it becomes final and, especially with regard to legal actions, only after the decisions have become final.

Any situations in which the effects of the basic application or registration cease to apply shall be reported to the International Bureau, indicating the name of the holder, the international registration number, the facts and decisions that affected the status of the basic application or registration, and all affected and unaffected goods and services. It is not necessary to indicate the grounds for the decision.

Please note that the goods and services affected and not affected by the cessation of effects must be reported to the International Bureau based on the list of goods and services contained in the international registration and not on the basis of the specification contained in the basic application(s) or registration(s). In cases

where all goods and services included in a given class are affected, indicate " goods/services in class X".

It is important to note that the dependency period is unique, counted from the date of international registration, that is, a new dependency period will not begin in cases of subsequent designation.

11.2.4.2 Legal actions

At the end of the dependency period, when aware of the existence of legal action that may result in the total or partial cessation of the effects of the base application or registration, INPI will inform the International Bureau.

If, after the dependency period, the INPI becomes aware of a lawsuit initiated during that period, it must inform the International Bureau, regardless of the time period. In this case, the INPI will also notify the International Bureau of the final decision on the lawsuit, requesting cancellation of the international registration only when applicable.

11.2.4.3 Transformation of international registration into a national application or registration

When the international registration is cancelled due to the cessation of effects of the base application(s) or registration(s) during the dependency application process, the holder of the international registration may request the transformation of the international registration in a national application or registration directly with the designated Contracting Parties within 3 (three) months after cancellation, in accordance with art. 9 quinquies of the Madrid Protocol.

After the 5 (five) year dependency period, the international registration and all designations become independent and are no longer affected by changes in the status of the base application(s) or registration(s).

11.2.4.4 Transfer of ownership during the period of dependency

During the dependency period, there is no impediment to transferring ownership of the international registration or the base application(s) or registration(s). For the certification stage, it is essential that the applicant of the international application and the holder of the base application(s) or registration(s) are identical. However, once the international application is certified,

the transfer of ownership is possible.

It should be noted, however, that the international registration remains dependent on the base application(s) or registration(s) during the period of dependence even if there has been a transfer of ownership of any of these application(s) or registration(s). It is up to the holder to verify the advisability of the transfer of ownership, since any cessation of effects of the base application(s) or registration(s) will result in the cancellation of the international registration.

11.2.4.5 Communication of division of the base application or registration

When there is a division of the base application(s) or registration(s) during the period of dependency, INPI will inform the International Bureau, in accordance with art. 10 of INPI/PR Resolution No. 247/2019.

The aforementioned information does not affect the international registration, aiming only at updating the registration, referring to the base application(s) or registration(s).

11.2.5 Requests relating to an international registration originating in Brazil

Extensions, subsequent designations and annotations relating to the international registration originated in Brazil must be requested by the holder directly from the International Bureau, pursuant to Article 11 of INPI/PR Resolution No. 247/2019. For further information, see item 11.4.2 Miscellaneous Requests.

The International Bureau provides instructions at the following addresses:

https://www.wipo.int/madrid/en/how_to/manage/ (English)

https://www.wipo.int/madrid/es/how_to/manage/ (Spanish)

Exceptionally, INPI will receive requests for annotation of change of ownership of an international registration in the case provided for in art. 35 of INPI/PR Resolution No. 247/2019. For more information, see item 11.4.2.2 Annotations, subitem **Change of Ownership**.

11.2.6 Rectifications of international orders originating in Brazil

The International Bureau may make corrections ex officio or at the

request of the holder or an Administration, in accordance with Rule 28 of the Common Regulations.

When the depositor or holder identifies the existence of an error in the international application or registration, he or she may request its rectification, in accordance with the following guidelines.

Rectifications relating to international applications originating in Brazil that have not yet been certified must be requested by the applicant to the INPI, in accordance with art. 13 of INPI/PR Resolution No. 247/2019.

When the international application has already been certified, the holder must request the correction directly from the International Bureau, in accordance with art. 12 of INPI/PR Resolution No. 247/2019, except in the case where the error is attributable to INPI and affects the rights arising from the international registration.

In these cases, if there is a discrepancy between the international registration and the documents submitted by the INPI, and the error is attributable to the International Bureau, the correction will be made ex officio or at the request of the interested party at any time. However, in cases where the error is attributable to the applicant, the holder, or their attorney, the correction will not be possible. Therefore, it is recommended that care be taken when completing and submitting the documents, as well as checking them.

When the error is attributable to the INPI and affects the rights arising from the international registration, the request for correction must be sent by the INPI to the International Bureau within 9 (nine) months from the publication by the International Bureau of the information subject to the correction. To ensure submission within this period, the holder must request the correction from the INPI within 7 (seven) months from the publication by the International Bureau of the information subject to the correction, in accordance with the sole paragraph of art. 12 of INPI/PR Resolution No. 247/2019.

To request corrections to international applications with the INPI, the holder must use the Protocol Regulation service. The user must enter the petition number of the corresponding international application and submit the petition in Portuguese.

How to request the service	
Service	Correction of data in an international application due to certification failures (Rule 28 - Madrid Protocol Regulation)
Code	3010

11.3 International registrations designating Brazil

As the designated Contracting Party Administration, the INPI is responsible for examining the registrability of trademarks subject to Brazilian designations, which, according to art. 17 of INPI/PR Resolution No. 247/2019, will produce the same effects as a trademark registration application filed directly in Brazil, as of the date of designation. Trademarks subject to Brazilian designations will be examined in accordance with the provisions of the LPI, as set forth in art. 18 of INPI/PR Resolution No. 247/2019. If granted, the protection of a Brazilian designation will be identical to that conferred on a trademark registration filed directly with the INPI.

11.3.1 How to make the request

Brazil's designation must be requested directly from the International Bureau. It is important to note that, upon designation, the first part of the individual remuneration for Brazil's designation must be paid to the International Bureau, which must be calculated using the following website:

<https://www.wipo.int/madrid/en/fees/calculator.jsp> (English)

<https://www.wipo.int/madrid/es/fees/calculator.jsp> (Spanish)

<https://www.wipo.int/madrid/fr/fees/calculator.jsp> (French)

When designating Brazil as the territorial extension of the protection of the international registration, the applicant must declare that it effectively and lawfully carries out the activity designated by the trademark in Brazilian territory, directly or through companies that it directly or indirectly controls, under penalty of law, in accordance with Article 128, §1, of the LPI. This declaration is included in the footnotes of the designation form, which can be obtained at the following address:

<https://www.wipo.int/madrid/en/forms/> (English)

<https://www.wipo.int/madrid/es/forms/> (Spanish)

<https://www.wipo.int/madrid/fr/forms/> (French)

11.3.2 Acts performed directly at the INPI

When performing acts directly at the INPI, the holder of an international registration domiciled abroad must appoint and maintain a duly qualified attorney domiciled in Brazil. The power of attorney must be submitted within 60 (sixty) calendar days from the date of the act, regardless of notification or requirement, under penalty of dismissal of the petition.

Applications for Brazilian designations submitted directly to the INPI, as well as any accompanying documents, must be written in Portuguese. Documents submitted in a foreign language must be accompanied by a simple translation.

Chapter 3, "How to File a Trademark Registration Application or Petition," contains information on all services related to a trademark application or registration. The provisions of this chapter regarding the service to be filed with the INPI must be observed.

It should be noted that, according to the sole paragraph of art. 1 of Res. 247/2019, the petition for trademark registration under the Madrid Protocol must be made exclusively electronically, except when prolonged unavailability of the system may cause significant harm to the preservation of rights.

11.3.3 Examination

From an international registration, the applicant may designate Contracting Parties, and the request for territorial extension of the protection of the international registration is sent to the Administrations of the designated Contracting Parties.

Designations received by Brazil are subject to the examination and processing conditions set forth in the LPI and the examination criteria described in Chapter 5 Substantive Examination.

11.3.3.1 Order of exam queues

The designations received by Brazil will be organized in the same queues as the applications filed directly with the INPI, defined in item 5.1 Order of examination queues.

11.3.3.2 Exam deadlines

In accordance with the provisions of Legislative Decree No. 98 of 2019 and art. 5(2)(b) of the Madrid Protocol, the deadline of 18 (eighteen) months for INPI to notify any refusal of protection of the trademark subject to the international registration will be

counted from the date of notification of Brazil's designation.

A refusal filed within the deadline is not necessarily a final decision. Therefore, the INPI may notify a provisional refusal, which may be confirmed or withdrawn later. Therefore, the substantive examination of the Brazilian designation must occur within 18 (eighteen) months of the designation date, and all possible legal impediments to the protection of the trademark subject to the international registration must be considered.

If no refusal has been notified in a timely manner, the extension of protection to Brazil will be granted, as provided for in Article 5(5) of the Madrid Protocol, provided that the second part of the individual fee relating to the designation of Brazil is paid. Further information can be found in item 11.3.4.1 Grant.

The grounds for refusing trademark protection are detailed in the Applicable Notifications subitem of items 11.3.3.5 Substantive Examination and 11.3.3.6 Appeals.

11.3.3.3 Formal examination

Formal examination is the stage in which the formal conditions necessary for the process to proceed are verified. If these conditions are met, Brazil's designation will be published in the Industrial Property Journal. Since international applications designating Brazil will be received in a foreign language, the following information will be translated into Portuguese before publication in the Industrial Property Journal:

- a) List of goods and services;
- b) List of goods and services for which priority has been claimed, if applicable; and
- c) Description of three-dimensional marks, if applicable.

After this information has been translated, a formal examination will take place, in which the following procedures must be observed.

Presentation form

Regarding the presentation format, the trademark will be analyzed to ensure it has been classified correctly. The following changes may occur:

- a) Wordmarks in non-Latin characters:

If the trademark is composed of words written in alphabets other than the vernacular language (such as Hebrew, Cyrillic, and Arabic)

or ideograms (such as Japanese and Chinese), the form of presentation will be changed to combined or figurative, in accordance with the definitions in item 2.3 Forms of submission. In these cases, the trademark will be classified according to the Vienna International Classification.

b) Unrated brands:

In the designations resulting from the international registration, only word marks and three-dimensional marks are classified according to their form of presentation, so that the formal examination will be responsible for correctly identifying figurative and combined marks.

If the designation refers to a trademark in a different form, such as a sound mark, the sign will be classified as such, and a merits examination will be required to decide whether it is registrable. If the designation received does not refer to a visually perceptible distinctive sign, Brazil's designation will be rejected for violating Article 122 of the Industrial Property Law.

The Image of the Mark

It is not possible to change the image of the mark subject to a Brazilian designation, as it must be identical to the image of the trademark contained in the international registration. Therefore, the following situations will not give rise to a formal requirement:

- a) Sharpness issues;
- b) Presentation of duplications or variations of the mark;
- c) Erasures in the image of the mark;
- d) Multiple views of a three-dimensional mark in the same image.

Trademarks resulting from international registration and classified as word marks in terms of their presentation are accompanied by an image containing the claimed word(s) in a common typography. During the formal examination stage, these images will be excluded, as will any indications referring to the Vienna International Classification, and only the nominative element will remain in the trademark data.

Nature

In designations resulting from international registration, collective and certification marks will be identified under the

category "Collective mark, certification mark or guarantee mark", so that the formal examination will be responsible for correctly identifying collective and certification marks.

Documents proving priority

At the formal examination stage, verification of priority supporting documents will not be carried out, as they are not forwarded to the designated Contracting Parties.

Mandatory documents for collective and certification marks

If the designation received refers to a collective or certification mark, a notification of total provisional refusal of protection will be sent to the International Bureau, informing that the mandatory documents provided for in articles 147 and 148 of the LPI and described in items 5.14 Analysis of collective mark applications and 5.15 Analysis of certification mark applications must be submitted in Portuguese within 60 (sixty) consecutive days of the corresponding publication in the RPI. The examination of the received designation will await the end of the aforementioned period.

The mandatory submission of the documents in question within the aforementioned deadline is a specific requirement of Brazilian law. As such, they must be submitted directly to the INPI using the appropriate electronic form (submission of documents, code 381), in compliance with the provisions of item 11.3.2 Acts performed directly at the INPI. After the deadline has elapsed and the documents have not been submitted, the designation received by Brazil will be archived, pursuant to the sole paragraph of articles 147 and 148 of the LPI, and confirmation of the total provisional refusal will be notified to the International Bureau.

How to request the service	
Service	Submission of documents
Code	381

Classification of goods and services

As the International Bureau reviews the specification of goods and services and makes the necessary adjustments to the Nice International Classification before sending the data to the designated Contracting Parties, there will be no formal examination as to the classification of goods and services.

11.3.3.4 Publication for opposition

After formal review, the designations will be published in the Industrial Property Journal, opening a period of 60 (sixty) consecutive days for filing oppositions. If an opposition is filed, the applicant will be notified and may submit a statement on the opposition within 60 (sixty) consecutive days from the publication of the existence of the opposition in the Industrial Property Journal.

It should be noted that notification of opposition to a Brazilian designation will only be published in the Industrial Property Journal, and no communication will be sent to the holder of the international registration through the International Bureau. Therefore, it is recommended that the holder of the international registration monitor publications in the Industrial Property Journal to learn of any opposition and submit a statement, if desired.

The statement regarding the opposition must be submitted directly to the INPI, and the provisions of item 11.3.2 Acts performed directly at the INPI must be observed.

It is worth remembering that submitting a statement regarding the opposition is not mandatory. The allegations presented in the opposition will be evaluated during the examination of the sign's registrability and, if found to be valid, will be used as the legal basis for a provisional refusal notified to the International Bureau, against which the holder of the international registration may appeal.

Brazil's designations for which opposition has been filed will be analyzed based on the provisions of item 5.12 Analysis of applications with opposition.

11.3.3.5 Substantive examination

During the substantive review stage, the designations received by Brazil will be analyzed based on the requirements of lawfulness, distinctiveness, veracity, and availability of the sign. Any third-party objections, statements from the holder of the international registration, and mandatory documents due to the nature and presentation of the sign will also be analyzed.

As provided for in Article 5(2)(a) of the Madrid Protocol, any notification of refusal of protection must inform all legal grounds

that prevent the granting of protection to the mark subject to the designation.

In this sense, when notification of provisional refusal is necessary to communicate the formulation of a requirement, the stay or suspension of the examination of the designation, the refusal will point out all violations of the legal provisions, listing all impeding prior notices, if any, as well as their respective lists of goods and services.

After the 18 (eighteen) month period, no other legal norm or prior status may be cited as an impediment to registration. However, new provisional refusals may be notified, even if they indicate other norms or prior status, as long as such notification occurs within the aforementioned period.

Specification analysis

When examining the specification, it will not be verified whether the goods and services are compatible with the classes to which they were assigned in the Nice International Classification, since the International Bureau analyzes the specification of goods and services and makes the necessary adjustments before sending the data to the designated Contracting Parties.

However, the other criteria in item 5.4 Analysis of the specification of goods and services apply to the examination of the specification, including the formulation of requirements for generic items and the exclusion of terms equivalent to goods and services considered illicit.

The exclusion or change of items in the specification constitutes a partial deferral of the designation, and will be communicated by means of a notification of total provisional refusal of protection, as provided for in §1 of art. 20 of INPI/PR Resolution No. 247/2019.

Legitimacy analysis

To assess the legitimacy of the holder of the international registration designating Brazil, the provisions set forth in item 5.5 Analysis of the Applicant's Legitimacy must be observed, which apply to all holders in cases of designations under a co-ownership regime. Regarding collective and certification marks, the provisions of items 5.5.5 Collective Marks and 5.5.6 Certification Marks must be observed.

Analysis of the priority claim

The International Bureau does not receive or send documents proving priority, and applications originating from the Madrid Protocol are exempt from presenting them, as provided for in Article 4(2) of the aforementioned treaty. Therefore, verification of documents proving priority will not be carried out.

Analysis of the lawfulness, distinctiveness, veracity and availability of the trademark

All criteria detailed in items 5.8 Analysis of the requirement for lawfulness of the trademark, 5.9 Analysis of the requirement for distinctiveness of the trademark, 5.10 Analysis of the requirement for veracity of the trademark and item 5.11 Analysis of the trademark availability requirement are applicable to the substantive examination of the received designations.

However, no requirements will be made for the exclusion of non-registrable elements from the sign applied for as a trademark, since it is not possible to alter the image of a trademark subject to a Brazilian designation, which must be identical to the image of the trademark contained in the international registration. In these cases, a provisional refusal notice will be sent to communicate the rejection or partial approval of the designation, indicating the applicable legal provision.

Regarding the examination of the availability of the trademark, it is worth noting that, in cases where the designation received is identical to the previous trademark registered in Brazil in the name of the same owner to designate the same goods and services, the provisions of art. 124, item XX, of the Industrial Property Law will not apply to the designation.

Analysis of designations with opposition

The criteria detailed in item 5.12 Analysis of applications with opposition shall apply to the substantive examination of the received designations. However, since it is not possible to alter the image of a mark subject to a Brazilian designation, which must be identical to the image of the mark contained in the international registration, the removal of an unregistrable part of the sign will not be permitted, even in the context of defense against third-party opposition.

Analysis of designations relating to three-dimensional marks and position marks

In the analysis of received designations relating to three-dimensional and position marks, the criteria set forth in item 5.13 Analysis of Three-Dimensional and Position Mark Applications apply. However, it should be noted that the image of the mark subject to a Brazilian designation cannot be altered, as it must be identical to the image of the mark in the international registration. Therefore, if the designation received by Brazil refers to parts of a trademark set claimed as a three-dimensional mark, such as the cap of a bottle, no requirements will be imposed for the plastic form to be presented in its entirety, and the examination will proceed in compliance with all applicable registrability standards and guidelines.

Analysis of designations relating to collective marks

When analyzing received designations relating to collective marks, the criteria in item 5.14 Analysis of collective mark applications apply.

Analysis of designations relating to certification marks

When analyzing received designations relating to certification marks, the criteria in item 5.15 Analysis of certification mark applications apply.

Analysis of designations referring to non-visually perceptible signs

If the designation received does not refer to a visually perceptible distinctive sign, the designation of Brazil will be rejected for infringement of art. 122 of the Industrial Property Law.

Applicable notifications

During the substantive examination of a Brazilian designation, the same rulings applicable to the examination of trademark applications filed directly with the INPI will be published in the Industrial Property Journal. Concurrently, the following notifications will be forwarded to the International Bureau:

Notification of total provisional refusal of protection:

Notifications of total provisional refusal, pursuant to Rule 17(1) of the Common Regulations of the Madrid Protocol, shall be sent to

communicate:

- a) Formulation of requirements during the examination;
- b) Suspension of the exam due to legal action;
- c) Exam suspension;
- d) Decision to reject the designation;
- e) Decision to partially grant the designation; or
- f) Ex officio archiving of the designation pending examination in view of the provisions of art. 135 of the LPI.

The total provisional refusal resulting from the partial approval of the designation will inform:

- that the declaration granting protection will only be sent after the decision on any appeal by the second administrative instance; and
- If no appeal is filed, a declaration granting protection will be sent in relation to the goods and services for which the sign is registrable.

The total provisional refusal sent to notify the suspension of the exam due to legal action or the suspension of the exam will inform the period of 60 (sixty) continuous days for the holder of the international registration designating Brazil to present a statement regarding the refusal.

Declaration of granting full protection:

Declarations granting protection shall be communicated at the time of granting the designation, in accordance with Rule 18ter(1) of the Common Regulations of the Madrid Protocol.

It should be noted that the designation will be granted when the sign examined does not infringe any legal provision and meets the registration conditions provided for in relation to the entire scope of protection claimed.

Along with the declaration of granting of full protection, a notification for payment of the second part of the individual fee for Brazil's designation will be sent to the International Bureau. For more information, see item 11.3.4.1 Grant.

Declaration of concession following a notification of provisional refusal:

During the substantive examination of Brazil's designation, the declaration of concession following a notification of provisional

refusal will be sent, in accordance with Rule 18ter(2) of the Common Regulations of the Madrid Protocol, to communicate:

- a) Decision to grant the designation, in cases where a notification of total provisional refusal of protection has been sent; or
- b) Maintenance of partial approval of the designation due to the failure to file an appeal.

In relation to paragraph a above, it is important to note that the declaration of concession must inform that the provisional refusals previously sent have been withdrawn.

Together with the declaration of granting of protection, a notification for payment of the second part of the individual fee for the designation of Brazil will be sent to the International Bureau. For more information, see item 11.3.4.1 Grant .

Confirmation of total provisional refusal:

During the substantive examination of Brazil's designation, notifications of confirmation of full provisional refusal will be sent, in accordance with Rule 18ter(3) of the Common Regulations of the Madrid Protocol, to communicate:

- a) Definitive archiving of the designation due to an unanswered requirement;
- b) Upholding the decision to reject the designation due to failure to file an appeal; or
- c) Maintenance, due to the failure to file an appeal, of the total ex officio archiving of the designation pending examination in view of the provisions of art. 135 of the LPI.

11.3.3.6 Appeal

International registrations designating Brazil will be granted the same rights of expression and appeal as those granted to applicants of trademark registration applications filed directly with the INPI. Therefore, the same criteria, conditions, and remedies described in the LPI and in Chapter 7 Appeals and Administrative Nullity Proceedings apply to the review of the matter. It should be noted that, to appeal an administrative decision, the applicant must file the appropriate appeal directly with the INPI, in compliance with the provisions of item 11.3.2 Acts Performed Directly at the INPI.

Appeal analysis

If the 18 (eighteen) month period established by art. 5(2)(b) of

the Madrid Protocol has expired, it will not be possible to point out, at the appeal analysis stage, other legal impediments that have not been listed in provisional refusals sent previously. Furthermore, as it is not possible to change the image of a trademark that is the subject of a Brazilian designation, which must be identical to the image of the trademark contained in the international registration, the removal of an unregistrable part of the sign will not be permitted, even in the context of an appeal.

Applicable notifications

During the review of an appeal of a Brazilian designation, the same rulings applicable to the review of appeals of trademark applications filed directly with the INPI will be published in the Industrial Property Journal. Concurrently, the following notifications will be forwarded to the International Bureau:

Declaration of granting full protection following a notification of provisional refusal:

During the examination of the appeal of Brazil's designation, the declaration of full concession following a notification of provisional refusal will be sent, in accordance with Rule 18ter(2) of the Common Regulations of the Madrid Protocol, to communicate the total reversal of the refusal or partial concession of the designation at the appeal stage.

In these cases, the declaration of concession will inform that the provisional refusals previously submitted have been withdrawn.

Together with the declaration of granting of full protection following a notification of provisional refusal, a notification for payment of the second part of the individual fee for Brazil's designation will be sent to the International Bureau. For more information, see item 11.3.4.1 Grant.

Declaration of granting partial protection following a notification of provisional refusal:

During the examination of the appeal against Brazil's designation, the declaration of partial concession following a notification of provisional refusal will be sent, in accordance with Rule 18 ter(2) of the Common Regulations of the Madrid Protocol, in the following cases:

- a) Maintenance of partial deferral of the designation at the appeal stage; or

- b) Partial reform of the rejection or partial approval of the designation at the appeal stage.

In these cases, the declaration of concession will not inform that the provisional refusals previously submitted have been withdrawn. Together with the declaration of granting partial protection following a notification of provisional refusal, a notification for payment of the second part of the individual fee for Brazil's designation will be sent to the International Bureau. For more information, see item 11.3.4.1 Grant.

Confirmation of total provisional refusal:

During the examination of the appeal of Brazil's designation, notifications of confirmation of total provisional refusal will occur, in accordance with Rule 18ter(3) of the Common Regulations of the Madrid Protocol, in the following cases:

- a) Upholding the decision to reject the designation on appeal; or
- b) Maintenance, at the appeal stage, of the total archiving of the designation, in accordance with the provisions of art. 135 of the LPI.

11.3.3.7 Notification of subsequent decisions

Once the examination of the registrability of a trademark subject to a Brazilian designation has been completed, including at the appeal stage, the INPI, upon issuing or becoming aware of any administrative or judicial decisions affecting the protection of a trademark subject to a Brazilian designation, shall notify the International Bureau, in accordance with Rule 18ter(4) of the Common Regulations of the Madrid Protocol. The notification shall state the status of the trademark and the protected goods and services in Brazil, if any.

Therefore, INPI will communicate through a notification of subsequent decision the following situations, among others:

- a) the declaration of termination of the designation due to total or partial expiry, in accordance with item III of article 142 of the LPI, or its reform on appeal;
- b) the declaration of nullity of the designation;
- c) the ex officio cancellation of the designation, in whole or in part, under the terms of art. 135 of the LPI, or its reform on appeal; and

- d) the extinction of the designation referring to the collective or certification mark, under the terms of art. 151 of the LPI, 1996.

It is important to note that the INPI will communicate a subsequent decision affecting a Brazilian designation even if an appeal is filed. In these cases, if the appeal is granted in full or in part, the INPI will communicate a subsequent decision to the International Bureau, informing the status of the trademark and the protected goods and services in Brazil, if any.

11.3.3.8 Irregularities in notifications

According to Rule 17(2) of the Common Regulations of the Madrid Protocol, notifications of provisional refusal must indicate:

- a) The international registration number and, where applicable, other information that allows its identification, such as the nominative element of the trademark;
- b) All legal grounds that prevent the granting of protection to the trademark subject to the designation;
- c) Whether the refusal affects all goods and services, or the affected goods and services; and
- d) The deadline for filing an appeal or presenting a statement, as well as the conditions for carrying out the act.

Also in accordance with Rule 17(2) of the Common Regulations of the Madrid Protocol, when the grounds for refusal cite a previous registration, the following must be informed: the application or registration number; the filing date, priority date (if any) and registration date (if any); the name and address of the applicant or holder; and the reproduction of the prior art and the respective list of goods and services, which may be sent in Portuguese.

Provisional refusals are noted and published in the WIPO Gazette. The note will indicate whether the notification concerns a full or partial refusal, as well as the affected class numbers.

Under Rule 18(1) (a) of the Common Rules of the Madrid Protocol, the notification of provisional refusal will be disregarded if:

- a) The document does not contain the international registration number or indications that allow the identification of the international registration;

- b) The document does not state the reason(s) for the provisional refusal; or
- c) The document is sent after the period of 18 (eighteen) months.

In compliance with Rule 18(1)(b) of the Common Regulations, if any of the irregularities described is found, the International Bureau will not make a record of the provisional refusal, but will transmit a copy of the provisional refusal to the holder of the international registration. The International Bureau will inform the INPI and the applicant that the refusal has been disregarded. If the 18 (eighteen)-month period has not yet expired, a new notification of provisional refusal may be sent.

A provisional refusal that fails to provide information on the possibility of appeal or statement of objection, as well as the deadlines for carrying out the action, will also be disregarded, unless a rectification is forwarded by the INPI within two (2) months of notification of the irregularity by the International Bureau. If the irregularity is rectified, the date of the previously sent provisional refusal will be maintained, in accordance with Rule 18(1)(d) of the Common Regulations.

If there are other irregularities, the International Bureau will note the provisional refusal and invite the INPI to rectify it within 2 (two) months, as directed by Rule 18(1)(c) of the Common Regulations.

Upon receipt of a refusal notice, the holder of the international registration is entitled to the same means of appeal and representation as those granted to applicants for trademark registration applications filed directly with the INPI. It should be noted that the International Bureau does not express an opinion on the grounds for refusal nor does it intervene in substantive matters.

11.3.4 Granting, extension and termination

11.3.4.1 Granting

When a declaration of grant of protection or a declaration of grant following a provisional refusal is sent to the International Bureau, the INPI shall send a notification for payment of the second part of the individual fee relating to the designation of Brazil , in

accordance with Article 8(7) of the Madrid Protocol and Rule 34(3)(a) of the Common Regulations. This notification shall indicate that payment must be made within 60 (sixty) consecutive days from the publication of the grant of designation in the Industrial Property Journal.

If payment is not made within the stipulated period, the designation will be permanently archived, except in the case of continued processing as provided for in the Common Regulations. Additional information can be found in item 11.4.3.2 Deadlines with the International Bureau.

11.3.4.2 Extension

To continue to have effects in Brazil, the extension of the international registration with respect to Brazil must be requested by the holder to the International Bureau using Form MM11. It is important to note that, for extension purposes, subsequent designations of Brazil follow the term of the international registration, regardless of the date on which the subsequent designation was notified or examined by the INPI.

Designations of international registrations pending examination that are not extended in relation to Brazil at the end of their validity period will be archived, and those that have been granted will be extinguished.

Payment of fees relating to the extension may be made within 6 (six) months following the final term of validity of the international registration, upon payment of an additional fee, as set out in Rule 30(1)(a) of the Common Regulations.

If the holder does not wish to extend the international registration in respect of any designated Contracting Party, the payment of the fees must be accompanied by a declaration informing the International Bureau accordingly, in accordance with Rule 30(2)(a) of the Common Regulations.

11.3.4.3 Extinction

The designation of Brazil shall be extinguished, in whole or in part:

- a) Due to the expiration of the term of validity of the international registration, when not extended in relation to the designation of Brazil;

- b) Due to the restriction on the list of goods and services regarding the designation of Brazil;
- c) By renunciation, in an international registration, regarding the designation of Brazil;
- d) By the cancellation, in whole or in part, of the international registration; or
- e) By expiry.

Regarding item "a" above, it is hereby informed that the extension of international registrations must be requested from the International Bureau and that INPI will only terminate the designation after receiving notification that Brazil's designation has not been extended, in accordance with Rule 31(4) of the Common Regulations.

Regarding item "d" above, it should be noted that when cancellation of the international registration has been requested by the Administration of origin, the holder of the international registration may request that the designation of Brazil be converted into a national application or registration. Further information can be found in item 11.3.7 Conversion.

In relation to paragraph e above, it is highlighted that the analysis of petitions for the expiry of designations from Brazil will be carried out in accordance with the provisions of item 6.5 Expiry.

Further information on restriction, waiver and cancellation can be found in item 11.3.5 Notes.

11.3.5 Notes

According to art. 28 of INPI/PR Resolution No. 247/2019, the following annotations, when made in the International Register regarding an international registration and applicable to Brazil as the designated Contracting Party, will produce the same effects as an annotation made directly with the INPI:

- change of name and address of the holder;
- change of ownership;
- restriction on the list of goods and services;
- renounce of the appointment;
- cancellation of international registration;
- division of international registrations resulting from changes of ownership; and

- merger of international registrations, provided they arise from a division resulting from a change in ownership.

11.3.5.1 Change of name and address of the holder

Upon receiving notification of a change in the name or address of the holder from the International Bureau, INPI will make the necessary changes to its database, and cannot declare that this annotation does not produce effects in Brazil.

The request for change of name and address of the holder regarding a designation of Brazil must be submitted by the holder directly to the International Bureau, in accordance with art. 27 of INPI/PR Resolution No. 247/2019. More information can be found in item 11.4.2 Miscellaneous requests.

11.3.5.2 Change of ownership

It should be noted that the change of ownership of an international registration will only be noted in relation to a given Contracting Party if it meets the requirements of the specific legislation applicable to that Contracting Party.

In this context, when the INPI considers that national legal requirements have not been met, upon being notified of a request for change of ownership, it may send a declaration that the change has no effect in Brazil, within 18 (eighteen) months from the notification of the annotation of the change of ownership. Such declaration must state the reasons for refusing the annotation and the conditions for filing an appeal, in accordance with Rule 27(4) of the Common Regulations and art. 28, paragraph 1, of INPI/PR Resolution No. 247/2019.

The declaration that the change of ownership does not produce effects in Brazil must indicate the goods and services affected. An appeal may be filed against a declaration that the change of ownership is ineffective, pursuant to Article 212 of the Industrial Property Law, within 60 (sixty) consecutive days from the publication of the petition's rejection in the Industrial Property Journal. The INPI will communicate the final decision on the change of ownership to the International Bureau.

If an appeal is filed, it will be analyzed and the INPI will communicate the final decision to the International Bureau,

confirming or reversing, partially or fully, the previous declaration.

If no appeal is filed within the aforementioned period, INPI will communicate the final decision to the International Bureau confirming that the change in ownership does not produce effects in Brazil.

The declaration that the change of ownership does not produce effects in Brazil or any final decision regarding this declaration will be noted in the international registration.

The provisions of art. 135 of the Brazilian Patent and Trademark Law apply to Brazilian designations. Therefore, if the requested transfer of ownership is granted, any applications, registrations, or designations in Brazil in the name of the transferor relating to identical or similar marks, or to an identical, similar, or related good or service that have not been transferred, will be filed or canceled ex officio. For more information, see Chapter 8, Transfer of Rights, item 8.7. Analysis of the transfer petition .

The request for annotation of a change of ownership relating to a designation of Brazil must be submitted by the holder directly to the International Bureau, in accordance with art. 27 of INPI/PR Resolution No. 247/2019. Exceptionally, the INPI will receive requests for annotation of a change of ownership of an international registration in the case provided for in art. 35 of INPI/PR Resolution No. 247/2019. More information can be found in item 11.4.2.2 Notes, subitem Change of ownership.

Note of change of ownership in case of limitation or encumbrance:

When the INPI is notified of a request for a change of ownership related to a Brazilian designation containing a limitation or encumbrance, a statement stating that the change of ownership has no effect in Brazil will be sent to inform the suspension of the examination of this change of ownership until the end of the aforementioned unavailability period. A statement regarding this suspension may be submitted within 60 (sixty) calendar days, counting from its publication in the Industrial Property Journal.

Once the unavailability in question has ended, the INPI will examine the change in ownership and publish its decision in the Industrial Property Journal. After examining any appeals, the INPI will

communicate its final decision on the change in ownership to the International Bureau, confirming or reversing, partially or fully, the previous declaration.

It is important to note that, if the review of a change of ownership is suspended due to a limitation or burden, the INPI will only notify the International Bureau after the final decision on the annotation. Therefore, it is recommended that the holder of the international registration monitor its progress through the Industrial Property Journal to be informed of any possible denial of the petition.

11.3.5.3 Restriction, Waiver and Cancellation

Under Rule 25(1)(a), the holder may apply to the International Bureau for a restriction, surrender or cancellation notation on the international registration.

The restriction may affect some or all of the designated Contracting Parties and concerns the limitation of the list of goods and services in relation to these Parties.

The request to waive the designation affects the entire list of goods and services in relation to some, but not all, of the designated Contracting Parties.

The cancellation note may be total or partial, referring to all or some of the goods and services, affecting the scope of protection in relation to all designated Contracting Parties.

The annotations of restriction on the list of goods and services, waiver of designation and cancellation of international registration will imply the withdrawal of the designation of Brazil that has not yet been examined, or the waiver of this, when its protection has already been granted.

Restriction on the list of goods and services

When notified by the International Bureau of a restriction in the list of goods and services, the INPI may declare that the restriction has no effect in Brazil, understanding that the requested change is not in fact a restriction, but an expansion of the scope of protection, within 18 (eighteen) months from the notification of the restriction annotation. Such declaration must state the reasons for refusing the annotation and the conditions for filing an appeal, in accordance with Rule 27(4) of the Common Regulations and art. 28, paragraph 1, of INPI/PR Resolution No.

247/2019.

An appeal may be filed against a declaration that the restriction is ineffective, pursuant to Article 212 of the Industrial Property Law, within 60 (sixty) consecutive days from the publication of the petition's rejection in the Industrial Property Journal. The INPI will communicate the final decision regarding the restriction to the list of goods and services to the International Bureau.

If an appeal is filed, it will be analyzed and the INPI will communicate the final decision to the International Bureau, confirming or reversing, partially or fully, the previous declaration.

If no appeal is filed within the aforementioned period, INPI will communicate the final decision to the International Bureau confirming that the restriction on the list of goods and services does not produce effects in Brazil.

The declaration that the restriction does not have effect in Brazil or any final decision regarding this declaration will be noted in the international registration.

The request for restriction of the list of goods and services related to a designation of Brazil must be submitted by the holder directly to the International Bureau, in accordance with art. 27 of INPI/PR Resolution No. 247/2019. More information can be found in item 11.4.2 Miscellaneous requests.

Renounce of the appointment

Upon receiving notification of renunciation of designation from the International Bureau, INPI will make the necessary changes to its database, and cannot declare that this annotation does not produce effects in Brazil.

The request for waiver regarding a designation of Brazil must be submitted by the holder directly to the International Bureau, in accordance with art. 27 of INPI/PR Resolution No. 247/2019. Further information can be found in item 11.4.2 Miscellaneous requests.

Cancellation of international registration

Upon receiving notification of cancellation of the international registration from the International Bureau, INPI will make the necessary changes to its database, and cannot declare that this annotation does not produce effects in Brazil.

The request for cancellation of the international registration must be submitted by the holder directly to the International Bureau, in accordance with art. 27 of INPI/PR Resolution No. 247/2019. More information can be found in item 11.4.2 Miscellaneous requests.

11.3.5.4 Division

Upon receiving notification from the International Bureau of the division of international registrations resulting from annotation of partial change of ownership, the INPI will examine the change of ownership and, if the requirements set forth in item 11.4.2.2 Annotations, subitem Change of ownership are met, will proceed with the division in its database.

It should be noted that the division referred to in Rule 27bis(1) of the Common Regulations does not apply to Brazil.

11.3.5.5 Fusion

Upon receiving notification from the International Bureau of a merger of international registrations resulting from a division due to a change in ownership, the INPI will examine the change in ownership and, if the requirements set forth in item 11.4.2.2 Annotations, subitem Change in ownership, are met, will proceed with the merger in its database.

It should be noted that the merger referred to in Rule 27ter(2) of the Common Regulations does not apply to Brazil.

11.3.6 Replacement annotation

According to the provisions of Article 4bis(2) of the Madrid Protocol, the holder of an international registration may request the annotation, in the designation of Brazil, of the replacement of the national registration of his/her ownership by the international registration. It will be verified whether:

- The national registration and international registration are in the same holder's name;
- International registration protection extends to Brazil;
- All goods and services listed in the national registration are also listed in the international registration regarding Brazil;
- The designation of Brazil takes effect after the date of national registration; and
- National registration is in effect.

Once the conditions for replacement are met, the INPI will record the replacement in its database and inform the International Bureau. The request will be rejected if the conditions are not met. The decision on the replacement will be published in the Industrial Property Journal.

An appeal may be filed against the decision to reject the replacement annotation, pursuant to Article 212 of the LPI, within 60 (sixty) consecutive days, counting from the publication of the rejection of the petition in the Industrial Property Magazine.

If the national registry is subject to an extraordinary extension period, the examination of the replacement annotation petition will await the end of this period or the payment of the extension.

11.3.7 Transformation

According to the provisions of art. 9 quinquies of the Madrid Protocol, when an international registration designating Brazil is totally or partially cancelled at the request of the Administration of origin, the holder of the international registration may, within 3 (three) months from the date of cancellation in the International Register, request the INPI to transform the designation into a national application or registration of the same mark.

The transformation will be processed in relation to all canceled goods and services and only in cases where the cancellation has been requested by the Administration of origin.

In proceedings resulting from transformation, the filing date and, where applicable, the priority date of the designation will be maintained. If the designation has already been granted, the designation's validity period will also be maintained in the record resulting from the transformation. If the designation has not yet been granted, its validity period will begin upon the eventual granting of the request resulting from the transformation.

Any actions taken in connection with the designation will be taken into account, provided they are performed before the date of cancellation of the international registration. Any communications sent by INPI but not received by the International Bureau will be notified again, and any applicable deadlines will be reopened.

Upon being notified by the International Bureau of the cancellation of an international registration at the request of the

Administration of origin, INPI will publish in the Industrial Property Magazine the cancellation of the designation of Brazil, informing the goods and services cancelled, as well as the deadline, of 3 (three) months from the date of cancellation in the International Register, for petitioning for the transformation of the designation.

If the transformation is not requested within the aforementioned period, the extinction or archiving, in whole or in part, of Brazil's designation will be published.

If a petition is filed within the aforementioned period, the INPI will proceed with the designation transformation for **all canceled goods and services**. After the transformation is processed, the applicant may file a petition for waiver or partial withdrawal, as applicable.

The designation of Brazil will be transformed into a national application, if it has not yet been examined, or into a national registration, if protection for the designation has already been granted.

The request for transformation will not be accepted if submitted after the applicable deadline or if it does not refer to an international registration cancelled at the request of the Administration of origin.

11.3.8 Correction of errors by the International Bureau

The International Bureau may make corrections ex officio or at the request of the holder or an Administration, in accordance with Rule 28 of the Common Regulations.

Once the necessary corrections have been made, the International Bureau shall notify the holder and the Administrations of the designated Contracting Parties, in accordance with Rule 28(2) of the Common Regulations.

As provided in Rule 28(3) of the Common Regulations and in art. 32 of Resolution INPI/PR No. 247/2019, when notified by the International Bureau of rectifications in an international registration designating Brazil, INPI may reexamine the designation of Brazil, and may annul or validate its acts, respecting the acquired rights of third parties.

Also, in accordance with Rule 28(3) of the Common Regulations, the INPI may issue a provisional refusal within 18 (eighteen) months from the date of notification if, after rectification, protection cannot be granted to the designation of Brazil.

The designation of Brazil will be considered nonexistent when the INPI is notified by the International Bureau of the rectification that the international registration does not designate Brazil, that the first part of the individual fee has not been paid, or that this designation should not be considered.

11.4 Means of communication, requests, deadlines and remuneration

11.4.1 Media

Languages of communication

In accordance with art. 3 of INPI/PR Resolution No. 247/2019, international applications originating in Brazil or petitions and communications regarding them sent to the International Bureau through INPI must be written in Spanish or English.

As provided in Article 14 of INPI/PR Resolution No. 247/2019, communications between the INPI and the International Bureau regarding a designation of Brazil shall be written in English. However, the list of goods and services related to the prior art indicated in a provisional refusal may be sent in Portuguese.

According to Article 15 of INPI/PR Resolution No. 247/2019, applications for Brazilian designations submitted by the holder of the international registration directly to the INPI, as well as any accompanying documents, must be written in Portuguese. Documents submitted in a foreign language must be accompanied by a simple translation.

INPI's official communication channels

The INPI's official communication tool is the Industrial Property Magazine, available on the Institute's website in PDF format. The Industrial Property Magazine is published every Tuesday, except on holidays, when it is published on the first immediately following business day. Compliance with the Industrial Property Magazine's publication date is important, as it begins the legal deadlines applicable to trademark applications, registrations, and petitions, as well as designations in Brazil.

More information can be found in item 1.2 Official means of communication.

Official means of communication of the International Bureau

The International Bureau's official means of communication is the WIPO Gazette, which is published weekly on the WIPO website, available at:

<https://www.wipo.int/madrid/monitor/en/> (English)

<https://www.wipo.int/madrid/monitor/es/> (Spanish)

<https://www.wipo.int/madrid/monitor/fr/> (French)

The WIPO Gazette contains all relevant data on new international registrations, renewals (extensions), designations, amendments and other occurrences affecting international registrations.

In addition, the WIPO Gazette contains information of general interest, such as declarations and notifications made by Contracting Parties under the Agreement or the Protocol or information on days when the International Bureau is not open to the public.

Methods of filing with the INPI

Under the Madrid Protocol, any petition relating to international applications originating in Brazil or to designations from Brazil must be made electronically, except in situations where the prolonged unavailability of the electronic medium causes significant harm to the preservation of rights.

11.4.2 Various requests

11.4.2.1 Correction to the international registration

When the applicant or holder identifies an error in the international application or registration, they may request its rectification. As a general rule, the holder must request corrections of errors related to an international application or registration directly from the International Bureau. Exceptionally, the INPI will receive requests for correction of errors in the international application or registration originating in Brazil, in accordance with the guidelines set forth in item 11.2.6 Rectifications of international applications originating in Brazil.

If there is a discrepancy between the international registration and the documents submitted by the INPI, and the error is attributable to the International Bureau, the correction may be made at any time upon request. However, if the error is attributable to the applicant, the holder, or their attorney, the correction will not be possible. Therefore, we recommend careful completion and submission of the documents, as well as checking them.

11.4.2.2 Notes

As a general rule, any notes regarding an international registration must be requested by the holder directly from the International Bureau. These notes include:

- change of name and address of the holder or his/her attorney;
- change of ownership;
- restriction on the list of goods and services;
- resignation from the appointment;
- cancellation of international registration;
- international registration division; and
- merger of international registration.

Changes in name and address of the holder or his/her attorney

The holder of an international registration may apply for a change of his or her name and address or the name and address of his or her representative in the International Register, in accordance with Rule 25(1)(a)(iv) and (vi) of the Common Regulations.

The request for a change of the holder's name and address must be submitted by the holder directly to the International Bureau, using form MM9. Please note that this form should only be used to change the name or address and not to record a change of ownership. For more information, please visit the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/change.html (English)

https://www.wipo.int/madrid/es/how_to/manage/change.html (Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/change.html (French)

The request to change the name and address of the attorney must be submitted by the holder directly to the International Bureau, using the optional form MM10. Please note that this form is only suitable for changes in the case of previously registered attorneys and should not be used to register a new attorney.

For more information, the WIPO website can be consulted:
https://www.wipo.int/madrid/en/how_to/manage/representation.html
(English)
https://www.wipo.int/madrid/es/how_to/manage/representation.html
(Spanish)
https://www.wipo.int/madrid/fr/how_to/manage/representation.html
(French)

Where the request for annotation of a change of name or address of the holder or his/her representative meets the applicable requirements, the International Bureau shall annotate the changes, with the date of receipt of the request, publish the relevant data in the WIPO Gazette, notify the Administrations of the designated Contracting Parties and inform the holder.

If the request for a change of name or address of the holder or his/her representative does not meet the applicable requirements, the International Bureau will notify the holder of the circumstances so that the irregularity can be corrected within 3 (three) months from the date of notification. If the irregularity is not corrected within this period, the request will be considered abandoned and any fees may be refunded with due deductions.

Change of ownership

The change of ownership of an international registration is provided for in Rule 25(1)(a)(i) of the Common Regulations and may be made in respect of all the goods and services of the registration or only some of them. The change of ownership may also affect all the designated Contracting Parties or only some of them.

For the change of ownership to be noted by the International Bureau, the new owner must meet the requirements for filing international applications, that is, be a national, domiciled or have a real and effective commercial or industrial establishment in the country or territory corresponding to each Contracting Party for which the change of ownership is requested.

The new holder must indicate the Contracting Parties in which he meets the legitimacy requirements to be the holder of the international registration.

If the request for annotation of change of ownership does not comply with the applicable requirements, the International Bureau will notify the holder of the circumstances and, if the request was made through an Administration, that Administration.

For further information, the holder may consult the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/ownership.html
(English)

https://www.wipo.int/madrid/es/how_to/manage/ownership.html
(Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/ownership.html
(French)

The request for annotation of a change in ownership of an international registration must be submitted **by the holder directly to the International Bureau**. Exceptionally, the INPI will receive, for the purpose of forwarding to the International Bureau, requests for annotation of a change in ownership of an international registration, provided that the following conditions are met cumulatively:

I - it is impossible to obtain, for legitimate reasons, the signature of the transferor of the international registration, proven by a valid document;

II - the transferor or transferee is an individual or legal entity, national or domiciled in Brazil or possessing a real and effective industrial or commercial establishment in the country; and

III - the change of ownership refers to an international registration originating in Brazil or to a designation of Brazil.

The request for forwarding the change of ownership annotation, when submitted to the INPI, will be analyzed in accordance with the rules applicable to the transfer of ownership of national applications or registrations and, if the requirements are met, will be granted and forwarded to the International Bureau. More information on the requirements applicable to the transfer of ownership can be found in Chapter 8: Transfer of Rights.

INPI will communicate, by means of publication in the RPI, the decision regarding the request to forward the annotation of change of ownership to the International Bureau.

How to request the service	
Service	Validation and transmission of the request for transfer of International Registration to the International Bureau (Article 9 - Madrid Protocol)
Code	3007

Restriction on the list of goods and services

The request for restriction of the list of goods and services must be submitted by the holder directly to the International Bureau, using form MM6. For more information, the holder may consult the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/limitation.html
(English)

https://www.wipo.int/madrid/es/how_to/manage/limitation.html
(Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/limitation.html
(French)

The restriction annotation does not imply the exclusion of goods and services from international registration, affecting only part of the scope of protection in relation to some or all of the designated Contracting Parties.

Resignation from the appointment

The waiver request must be submitted by the holder directly to the International Bureau using form MM7. For more information, the holder may consult the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/renunciation.html
(English)

https://www.wipo.int/madrid/es/how_to/manage/renunciation.html
(Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/renunciation.html
(French)

The request to renounce the designation affects the entire list of goods and services in relation to some, but not all, of the designated Contracting Parties and does not imply the exclusion of these goods and services from international registration.

Cancellation of international registration

The request for cancellation of the international registration must be submitted by the holder directly to the International Bureau,

using form MM8. For more information, the holder may consult the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/cancellation.html
(English)

https://www.wipo.int/madrid/es/how_to/manage/cancellation.html
(Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/cancellation.html
(French)

The cancellation note may be total or partial, referring to all or some of the goods and services, which will be excluded from the international registration, affecting the scope of protection in relation to all designated Contracting Parties. Therefore, canceled goods and services cannot be subject to subsequent designations. Finally, it should be noted that complete cancellation results in the cancellation of the international registration itself.

11.4.2.3 Extension

The request for an extension of the international registration must be submitted **by the holder directly to the International Bureau** using Form MM11. It is important to note that, for extension purposes, subsequent designations will be applied to the validity period of the international registration.

Payment of fees relating to the extension may be made within 6 (six) months following the final term of validity of the international registration, upon payment of an additional fee, as set out in Rule 30(1)(a) of the Common Regulations.

If the holder does not wish to extend the international registration in respect of any designated Contracting Party, the payment of the fees must be accompanied by a declaration informing the International Bureau accordingly, in accordance with Rule 30(2)(a) of the Common Regulations.

For further information, the holder may consult the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/renewal.html
(English)

https://www.wipo.int/madrid/es/how_to/manage/renewal.html
(Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/renewal.html (French)

11.4.2.4 Later designations

Requests for subsequent appointments must be submitted by the incumbent directly to the International Bureau.

For further information, the holder may consult the WIPO website:

https://www.wipo.int/madrid/en/how_to/manage/designation.html

(English)

https://www.wipo.int/madrid/es/how_to/manage/designation.html

(Spanish)

https://www.wipo.int/madrid/fr/how_to/manage/designation.html

(French)

11.4.3 Deadlines

11.4.3.1 Deadlines with the INPI

The deadlines established in the Industrial Property Law, as a general rule, begin to be counted from the date of publication in the Industrial Property Journal. The count begins on the first business day after publication and is based on continuous days. After the end of the stipulated deadline, the right to perform the act is extinguished, except when the deadline can be returned, pursuant to art. 221 of the Industrial Property Law and INPI/PR Ordinance No. 049/2021, due to an unforeseen event beyond the control of the party that prevents the act from being performed.

11.4.3.2 Deadlines with the International Bureau

The deadlines for carrying out acts with the International Bureau may be counted in years, months, or days.

The period counted in years will expire on the same day and month as the event that started the count, except when the period begins on February 29th and ends in a year in which such a date does not exist. In this case, the end date will be February 28th.

The period counted in months will expire on the same day as the event that started the count, except when there is no day with the same number. In these cases, the term will expire on the last day of that month. For example, a 3-month term starting on January 31st will end on April 30th.

Finally, the period counted in days will begin on the day following the event that started the count.

As a rule, the date the INPI sends a communication will be considered the date of the performance of a given act. In cases of

transmission of an international application and notifications of refusal of protection, the date of receipt by the International Bureau will be considered.

When the date of sending a communication by INPI is different from the date of receipt by the International Bureau, due to the difference between the time zone of the INPI headquarters and the headquarters of the International Bureau, the date of transmission according to the time zone of the INPI headquarters will be considered for the purposes of counting the deadline.

Continuous Processing

In the cases provided for in Rule 5bis of the Common Regulations, when the applicant or holder of the international registration fails to comply with a certain deadline with the International Bureau, he or she may request, within 2 (two) months after the deadline, continued processing with the International Bureau.

According to Rule 5bis of the Common Regulations, the time limits for which a request for continued processing is permitted relate to:

- Corrections of irregularities related to the international application to be corrected by the applicant as referred to in Rule 11(2) of the Common Regulations;
- Corrections of irregularities related to the international application to be corrected by the applicant or the INPI as referred to in Rule 11(3) of the Common Regulations, relating to the payment of the fee in an amount lower than that required by the International Bureau;
- Correction of irregularities related to requests for license annotation as referred to in Rule 20bis(2) of the Common Regulations, regarding the mandatory requirements that must be included in the annotation;
- Corrections of irregularities related to subsequent designations as referred to in Rule 24(5)(b) of the Common Regulations;
- Corrections of irregularities related to requests for notes as per Rule 25 of the Common Regulations;
- Payment of the second part of the individual remuneration (concession remuneration) referred to in Rule 34(3)(c)(iii) of the Common Regulations; and
- Applications for an international registration to continue its effects in a successor State and payment of the corresponding fees as set out in Rule 39(1) of the Common Regulations.

Continued processing must be requested by the holder directly to the International Bureau, using form MM20, available on the website:
<https://www.wipo.int/madrid/en/forms/> (English)
<https://www.wipo.int/madrid/es/forms/> (Spanish)
<https://www.wipo.int/madrid/fr/forms/> (French)

The request must be accompanied by the corrections, payments or requests subject to continued processing and can only be requested after the expiration of the period to which it applies.

When the application is received in accordance with the provisions of Rule 5bis of the Common Regulations, the International Bureau will proceed with the action in question, note the continued processing in the international registration and notify the holder. A request for continued processing that does not comply with the provisions of Rule 5bis of the Common Regulations will not be considered and the International Bureau will notify the holder.

In the case of continued processing of corrections of irregularities relating to requests for annotation of licences referred to in Rule 20bis(2) and relating to annotations referred to in Rule 25 of the Common Regulations, the date of annotation shall be taken to be the end date of the period subject to continued processing.

Please note that the International Bureau will only notify the non-compliance with an act after the end of the two-month period for requesting continued processing, where applicable. For example, the INPI will only be notified that the second part of the individual fee for the designation of Brazil has not been paid after the end of said period.

11.4.4 Remuneration

When referring to acts performed with the INPI, the payments must be made using the Federal Collection Guide (GRU).

The fees for INPI services are set out in the Fee Schedule, available on the INPI Portal. More information can be found in item 1.7 Fees.

Regarding fees paid directly to the International Bureau, the responsibility for calculating the amount to be paid lies with the applicant, who must first access the WIPO Fee Calculator, available on the website:

www.wipo.int/madrid/en/fees/calculator.jsp (English)
www.wipo.int/madrid/es/fees/calculator.jsp (Spanish)
www.wipo.int/madrid/fr/fees/calculator.jsp (French)

Models

Compliance with requirement

This document contains instructions to assist and facilitate the protocol for complying with requirements by users of INPI services.

This isn't an attempt to impose a rigid model, but rather to outline guidelines for what's expected from the user, with the help of practical examples that can help both the user and the examiner. A request for compliance with the requirements more closely aligned with the model presented below would make the exam faster and more error-free.

Authorization or consent must be included in each trademark registration application for a third party's personality right, regardless of any previously acquired trademark rights. Authorizations for the application, request, filing, or registration of the right as a trademark are accepted. However, authorizations that only cover the "use" of the personality right are not accepted.

Compliance with requirement (model)

Opposition to trademark registration application

This document contains instructions to assist and facilitate the filing of opposition to trademark registration applications by users of INPI services.

This article does not attempt to impose a rigid model, but rather to outline guidelines for what is expected from the user, with the help of practical examples that can help both the user and the examiner. An opposition petition closer to the model presented below would more clearly explain, to all parties involved, especially the examiner, which of the Opponent's rights are being infringed. This way, the opposition review could be faster and more error-free.

It is worth remembering that the applicant of the application against which the opposition is filed has the right to speak out, presenting counterarguments to the allegations made in the opposition. However, due to the lack of legal provision and in accordance with current regulations, any reply the Opponent makes to the Opposed Party's statement will not be considered.

At the end of the document, there are models of what a piece would look like under these molds.

Opposition to application for trademark registration (model)

Document attesting to the joint performance of acts by the co-owners of the trademark

This document model aims to facilitate the proof of joint practice of acts by co-owners of the trademark, required when the deposit or petition is not made by a single attorney, that is, when it is filed by one of the applicants or by an attorney without the power to represent all of them, in accordance with §1 of art. 57 of INPI Ordinance No. 8/2022.

This isn't intended to impose a rigid model, but rather to outline guidelines for what is expected from the user, with the help of examples of practice that can help both the user and the examiner. The document attesting to the joint performance of acts by the group of co-owners, attached to the process according to the following model, would make the examination faster and more error-proof.

Document attesting to the joint performance of acts by the co-owners of the trademark (model)

Statement on request for expiration of trademark registration

This document contains instructions to assist and facilitate the protocol for filing a request for trademark registration expiration by users of INPI services.

This is not intended to impose a rigid model, but rather to outline guidelines for what is expected from the user, with the help of examples of practice that can help both the user and the examiner. A petition for revocation closer to the model presented below would more clearly explain, for all parties involved, especially the examiner, the allegations and documents presented that prove the use or justify the disuse of the registered trademark. This way, the revocation review could be conducted more quickly and more error-free.

It is worth remembering that, due to the lack of legal provision and in accordance with current regulations, any reply to the defendant's statement will not be taken into consideration.

Statement requesting the cancellation of a trademark registration (template)

Declaration of economic group relationship

This document contains a template for declaring a business group relationship between companies. This declaration must be included in each trademark application, regardless of any previously acquired trademark rights. It is important to note that proof of a business group relationship must be provided through a joint declaration by the companies involved, dispensing with the submission of supporting documents.

Declaration of economic group relationship (template)

Regulations of use

The regulations for the use of collective marks must contain:

- description of the applicant legal entity, indicating its qualifications, corporate purpose, address, and individuals or legal entities authorized to represent it;
- conditions for any withdrawal of the registration application or waiver, partial or total, of the trademark registration;
- requirements necessary for affiliation with the legal entity and for individuals or legal entities associated with or linked to the applicant legal entity to be authorized to use the trademark under examination;
- conditions of use of the trademark, including the form of presentation and other aspects relating to goods and services to be marked; and
- any sanctions applicable in the event of inappropriate use of the brand.

In addition to the elements mentioned in the items above, the regulation may be supplemented by any other elements that the applicant for the collective mark deems relevant.

The model of usage regulations, for optional use, is available for download at the following link.

Regulations for use (model)

Assignment document

This assignment document template aims to assist and facilitate the filing of a petition for annotation of transfer of ownership by users of INPI services.

The intention here is not to impose a rigid model, but rather to outline guidelines for what is expected from the user, as an example

of a practice that facilitates the work of both the user and the examiner. A transfer request that includes an assignment document close to the template clearly meets the requirements for annotation and allows for faster review, in addition to reducing the likelihood of needing to formulate demands.

Assignment document (template)

Declaration of the purpose of access to reprographic copies

This is a declaration of the purpose of access to reprographic copies in compliance with Law No. 13,709/2018 (General Personal Data Protection Law). The declaration must be included in the Copy Request if the document contains personal data that does not belong to the applicant.

Declaration of the purpose of access to reprographic copies (template)