



XXXVII

INTERNATIONAL CONGRESS
ON INTELLECTUAL PROPERTY - ABPI

ABPI
ASSOCIAÇÃO BRASILEIRA DA PROPRIEDADE INTELECTUAL

Intellectual Property in the Global Political and Economic Context

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Pimentel advocates financial autonomy for INPI

INPI President Luiz Otávio Pimentel said yesterday he was in favor of giving INPI financial autonomy to reduce patent backlog and improve productivity. “INPI must have the right to invest collected resources. We have an annual surplus of approximately R\$ 500 million that could well be invested to modernize the Institute”, he said during yesterday’s session on “Legislative Initiatives to improve IP protection: relevant legislation and their impact” – the last plenary of ABPI XXXVII Congress.

According to INPI President, several actions may contribute to speed up patent examination procedures. He advocates government investment to hire professionals and adoption of an 8-articles proposal now being drafted by technicians to reduce backlog.

Pimentel also stressed the quality of work performed by INPI examiners. “In ten years, 514,000 patent applications were filed with INPI. 282,00 were de-



cidated and we have 231,000 pending. Of these, 173,000 deposits have been already examined. In other words, two thirds of demand have already been analyzed by our examiners”.

The new INPI strategy includes career planning to help retain staff; increasing staff; assigning more people to exam-

ination procedures; drawing an executive order to regulate the services prior to examination (for instance, classification and search reports); solving the problem of physical processes mobility; and extending home offices practice, which depends on a more robust information technology infrastructure. ■

ABPI Congress shows the way of the future for IP



For four days, 700 participants and over one hundred foreign visitors were gathered in Rio de Janeiro, attending 16 panels and four plenary sessions to discuss the way of the future for Intellectual Property. Intense journeys and debates, which culminated in INPI proposals to reduce patent applications backlog and defend its financial autonomy.

“This edition of the Congress has reaffirmed the importance of IP and the relevance of ABPI in this context”, said ABPI President in her closing address. “If this was a successful event it was

thanks to the participation of all of you – speakers, sponsors, exhibitors and most of all, this audience”.

The congress success could be measured by pre-congress meetings: technical workshops that were an event in themselves, discussing complex subjects like trademarks, patents, biotechnology, copyright, among many others. The exhibition area was as usual the perfect space for networking. And joy was also present in the traditional party sponsored by the IP offices.

You are all invited to the next Congress in São Paulo in 2018. ■

No Backlog in 3D-Trademarks



Owing to the dedicated work of INPI's Commission for 3-D Trademarks, there is no backlog here, said yesterday Andre Luis Balloussier, INPI's director of Trademarks, Industrial Design and Geographical Indications during the panel titled "Unconventional Trademarks: Issues on 3-D trademark protection in the era of 3-D printing". In his presen-

tation, Mr. Balloussier said the INPI is examining applications submitted in January 2017.

Panelists discussed ethical and legal issues in 3-D printing and how the ease of producing, modeling and sharing "objects" can be protected by intellectual property law. "Consumer's perception should be considered in the case of 3-D trademarks", observed Balloussier, adding that since the 1996 Intellectual Property Law over 3,600 deposits were made with INPI. In recent years, the annual average was 160 deposits, with 545 registrations granted and 476 in force.

The panel also had the participation of David Postolski, from *Gearhart Law LLC*, who made a presentation on 3D trademarks in the U.S., and Diego Palacio, partner at *Palacio & Asociados*, who talked about procedures in Argentina. The moderator was Ricardo Vieira de Mello, partner at *Montaury Pimenta, Machado & Vieira de Mello Advogados*. ■

INTA Educational Program reaches 3,000 Latin American adolescents

Approximately 3,000 students in Latin American countries (Brazil, Colombia, Costa Rica and Panama) were reached by the INTA Program, *Unreal Campaign*, to raise conscience awareness of the importance of Intellectual Property among children and adolescents, said yesterday Marcel Oliveira Müller during his presentation in the panel "Education on IP initiatives to disseminate knowledge and raise awareness on IP importance".

The Program uses videos, school visits and several activities to engage adolescents and inform about the neg-

ative impact of piracy to society, which affects jobs and leads to tax evasion.

Unreal Campaign was officially launched last year and is now part of INTA Committees. At least 70 of the institute members are engaged in the program worldwide, 11 of them in Latin American countries. "Many school teachers participate and ask us to come back", says Oliveira Müller, the representative of the program for Brazil.

The panel moderator was Antônio Carlos Siqueira, from ABIHPEC, with panelists Kone Prieto Furtunato Cesário, from UFRJ and Juan Varell from ASIPI. ■

Simplify patent awards: a company strategy

Simplified procedures in patent awards, an issue that was the object of a public consultation promoted by INPI and the Ministry of Industry, Commerce and Services (MIDC) will depend on each company's strategy. It may be used to effectively block a competitor's application or may be used for strategic patents of the organization. The issue was discussed yesterday in the panel "IP portfolio management: how to really make the best of intellectual property rights". "I think what will really drive the decision will be competition monitoring" said BASF representative Adriana Cláudia de Moura.

In his presentation, Marcos Blasi from BR 3 S. talked about efficiency in trademark portfolio management. The company must consider branding work, value perception and brand activation strategy, among other aspects, he said. "IP management is also a company asset and for that reason it is of the essence to deal with it smartly," he explained.

The panel also had the participation of Darin Gibby from Kilpatrick Townsend & Stockton LLP, and was moderated by Jacques Labrunie, from Gusmão & Labrunie Propriedade Intelectual. ■



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Patent portfolio management: the Japanese model

“We are very excited about JPO’s management model”, said yesterday INPI President Luiz Otávio Pimentel in the XXXVII Congress plenary session “Trademark and patent shared examinations: an experience of joint IP offices’ work”. He was referring to the pilot project agreement **Patent Prosecution Highway (PPH)** signed last March between the Brazilian entity and the Japanese Patents Office. “We are working hard to improve our procedures. We are confident that INPI is in the right path”, he added.

In fact, there are more than a few examples taken from the Japanese model. In the PPH sphere, agreements were signed with national offices in 47 countries.



The Director for Political Planning, Japan Patents Office Administrative Division, Mr. Yoshiaki Kodashi, told the audience how his office has been fighting patent backlog in the last 10 years. To reduce the backlog of pending examinations, which was growing geometrically compared to deposits, the most urgent measure was to hire more examiners. As of today, 500 examiners

work in the examination of 247,000 applications. In Brazil, there are 300 examiners with a workload of 230,000 applications.

Another action taken by the JPO to reduce backlog was to outsource part of the examinations process to private companies. 10 organizations now registered account for the examination of one third of the applications. ■

Law protects auto spare parts industrial design

There is an innate partnership between automakers and spare parts suppliers, formed along the 35 years it takes to develop a new auto model, said yesterday Marcio de Lima Leite, Fiat representative at the panel “Industrial Design: where do we stand and where are we heading to in automobile spare parts protection and production”. “Every supplier participates in the industrial design process of a car”, he explained. “No bumper can be



replaced by that of a maker who was not involved in the process”.

Lima Leite resorted to the bumper example of the Toro model, in the SUV segment, to point out the importance

of intellectual property protection in spare parts. “It is not just a matter of design, but of the essence of a product; it involves a complex system with much added technology”, he observed. In his view, the Industrial Property Law (Law 9.279/96) provides protection for spare parts. “Protection is essential to ensure competitiveness”, he said. “Suppliers who participate in the manufacturing process invest in innovation and in research centers”.

In the panel were also João Luiz Garcia, from Simões, Garcia, Corte-Real & Associados and Ricardo Cardoso Costa Boclin, from Kazznar Leonardos, who acted as moderator. ■

Digital music copyright

Conflicts around digital products copyright ensued heated debates yesterday during the panel “Downloading, Streaming and other virtual technologies: the impact of recent court rulings”. Congress participants debated real cases, such as the Brazilian high court of Justice (STJ) ruling in the beginning of 2017 that found *streaming* services should pay copyright for music transmission via *streaming* services.

Another lawsuit involving *streaming* was presented by lawyer Fabio Luiz Barboza Pereira, partner at Veirano Advogados, on STJ ruling that ECAD should be paid for Spotify and Apple Music *streaming* services. According to Pereira, the company OI was challenging copyright payment for public transmission of music from digital sources but the court was unanimous in favor of the concept that “*webcasting, simulcasting, streaming and interactive streaming*” were provided for under the Copyright Law and therefore ECAD could not legally claim any tax payment.

Ana Fonseca from Universal Music said that *streaming* services in Brazil grew 52.4% as compared to 2015, while *downloading* services decreased 44.9% in that same period. “We can see that audiences prefer to access quality content in their mobile phones”, she added. In 2016 Brazil ranked 11th in the global web index on digital products consumption.

Also participating in the panel were Sydney Sanches, from Sydney Sanches e Advogados Associados and the moderator was Attilio Gorini, partner at Dannemann Siemsen law firm. ■

Participants evaluation of ABPI XXXVII Congress on Intellectual Property:



André Luis Balloussier
Ancora da Luz,
INPI

"I come to every edition of the Congress and it is always an enormous success. Subjects are interesting, innovative and we find it difficult to pick which session to attend. This year I was glad and honored to be a speaker in the panel on 3-D trademarks in the era of 3-D printing. Most of all, this event is the right venue to meet and talk to other participants"



Luiz Henrique do Amaral,
Dannemann
Siemsen

"This year's Congress is extremely important - in a time when Brazil is going through a transition in all areas, legal, institutional and economic. ABPI's mission is to point to the future and present proposals for improvement and development of Intellectual Property to foster the country's growth and economic development"



Fabiano de Bem da Rocha,
Kasznar
Leonardos

"Congratulations to ABPI are well due for the excellent congress. Despite economic and political turbulences and the challenging time the country is experiencing, ABPI held a momentous event. Panel and plenary sessions debated highly interesting topics"



Luiz Edgar Montauray Pimenta,
Montauray Pimenta,
Machado &
Vieira de Mello
Advogados

An impeccable event. Congress participants listened to and debated Intellectual Property issues, did a lot of networking, and had great fun at the party offered by the offices at the Grand Hyatt hotel. The closing sessions discussed patent system improvements. For very good reasons people are praising the event"



Maria Cláudia Nunes,
CNI

"The 2017 ABPI Congress was a fantastic opportunity for us to discuss how to cut short the long time in waiting for patent applications examination, a situation that harms not only entrepreneurs but also the competition, public powers and Society"



Márcia Maria Nunes de Barros,
Judge 13ª Vara
Federal

"This year the ABPI Congress surpassed all expectations. It joined the best international opinions and the current issues in Brazil in high quality discussions and talks"



Ildo Ritter,
Ritter
Advogados

"We come every year to ABPI Congresses. It is always an excellent event that gives us the opportunity to share experiences, contact new offices, and be updated on all subjects pertaining to Intellectual Property"



Valdir Rocha,
Veirano
Advogados

"This year's congress was very well-organized. Highly qualified speakers and interesting and differentiated panels, such as the one discussing the arts market and its legal implications"



Ricardo Pinho,
ABAPI

"At every passing year the Congress exceeds itself and is even better. And it is always such a fantastic opportunity to meet colleagues, authorities and to question the management of Intellectual Property issues in Brazil"



Rodolfo Humberto Martinez,
Martinez &
Associados

"As usual, the congress excelled in bringing forth and discussing critical issues. I personally liked the idea of inviting someone who is not from the IP world to the opening ceremony to talk about the country situation in general"



XXXVIII^o BRASIL

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<p>OURO » GOLD</p> <p>BHERING ADVOGADOS</p> <p>Di Blasi Parente & Associados</p> <p>Kasznar Leonardos <small>PROPRIEDADE INTELLECTUAL</small></p>		

Agreement between ABAPI and CSD-ABPI

Conflicts arising among members of ABAPI – Brazilian Association of Intellectual Property Agents – may now be resolved at ABPI'S Mediation Chamber of CSD (Dispute Resolution Center), thanks to an agreement reached with both entities. The agreement was signed during the Congress by ABPI President Maria Carmen de Souza Brito and ABAPI Vice-president Álvaro Loureiro. ■