

A Year of Change for Industrial Designs in Brazil with the Hague Agreement Concerning the International Registration of Industrial Designs and the New Examination Guidelines

07.12.2022 2 min read

Authors

André de Moura Reis

Related areas

Intellectual Property

Topics

Newsletters Intellectual Property

Patents INPI Innovation André de Moura Reis

The year of 2022 is turning out to be of major relevance regarding industrial designs in Brazil. Various projects, including new Examination Guidelines and Brazil's accession to the Hague Agreement ("Agreement"), are expected to set a new era for the protection of industrial designs, in line with the world's best practices. The projections are that Brazil will be able to provide a framework robust enough to handle the current and future waves of innovation in areas focused on designs.

Firstly, new Examination Guidelines for Industrial Designs are open for public consultation until December 07, 2022. Although the initial text will still receive contributions from interested parties, it already represents a significant improvement in view of the previous version.

Further, Brazil is in the final stages to join the Hague Agreement through the Geneva Act, with the recent approval from the National Congress. The Agreement sets a centralized system to handle industrial designs coordinated by the World Intellectual Property Organization (WIPO), aiming at the simplification of protection procedures abroad and reduction of related costs. The Hague system currently has 94 member states, including China, all countries of the European Union, Japan and the United States. Brazil will be the first South American country joining the Hague Agreement.

The system allows the protection of industrial designs in any of the signatory parties by the filing of a single application through the WIPO. Although general formalities are assessed upon filing, the signatory parties, to include Brazil shortly, are entitled to refuse, in part or in whole, the effects of international registrations whenever they do not meet local registrability requirements, excluding formal requirements (drawings definitions, presence of color and others). Upon receipt of a refusal notice, the applicant is entitled to reply to the refusal notification at the local Office, which will be the Brazilian PTO in Brazil's case.

For example, while the system allows up to 100 designs, provided they pertain to the same Locarno classification, Brazilian IP Law limits the industrial design registration to a single design with up to 20 variations. In such a situation, the international registration would have to be divided in as many divisional cases as needed to be in accordance with the Brazilian requirements.

In view of the above, before the Agreement becomes effective, specific

regulations will be issued by the Brazilian PTO with guidance on Hague's harmonization with local legislation and Guidelines, which should occur within the coming months.

By joining the Hague Agreement, Brazil is taking a substantial step into modernizing its industrial design protection framework. As a consequence, society as a whole wins, with the system users being more motivated and having their creations duly protected to stand out from the competition, the work of the Brazilian PTO being internationally recognized, and the Brazilian market being further strengthened.

› PROFESSIONALS

Professionals who combine legal insight and market perspective



André de Moura Reis