

# Guidelines on Intellectual Property System in Brazil for Entrepreneurs



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## 1. What types of IPRs can be registered and protected?

### What objects of IPR protection can be registered?

IPRs are protected in different ways in Brazil. Some require registration, others do not.

The protected objects are:

#### Copyright:

- Copyrights
- Related Rights
- Computer Program

#### Industrial Property:

- Trademark
- Patent
- Industrial Design
- Geographical Indication
- Industrial Secrets & Repression of Unfair Competition

#### Sui Generis Protection:

- Integrated Circuit Topography
- Plant Variety Protection
- Traditional Knowledge

## 2. How to find a patent attorney?

You can find a registered patent attorney at ABAPI – Associação Brasileira dos Agentes da Propriedade Industrial - <https://abapi.org.br/>







## 3. IP Rights & Registration Procedures:

- Where application is submitted?
- Can it be registered by international registration systems?
- How long registration will take?
- What are the fees? How much will it cost?
- What is period of protection validity?




## Where to submit your Industrial Property application in Brazil

IP	Institution	Link
Trademarks	National Institute of Industrial Property (INPI)	
Patents	National Institute of Industrial Property (INPI)	
Industrial Design	National Institute of Industrial Property (INPI)	
Geographic Indication	National Institute of Industrial Property (INPI)	
Plant Variety Protection	Ministry of Agriculture and Livestock (MAPA)	

## Where to submit your voluntary register of copyrights in Brazil

Copyrights	Institution	Link
Musical Works	School of Music of the Federal University of Rio de Janeiro (UFRJ)	
Architectural Works	Brazilian Council of Architecture and Urbanism (CAU)	
Audiovisual Works	National Cinema Agency (ANCINE)	
Computer programs	National Institute of Industrial Property (INPI)	

Brazil is a signatory of the Patent Cooperation Treaty, Madrid Protocol, and Hague Treaty, all of which can be requested at INPI website.

IP	Institution	Link
Trademarks	Madrid Protocol (INPI)	
Trademarks	Patent Cooperation Treaty (PCT) (INPI)	
Industrial Design	Hague Treaty (INPI)	

The full list of IP treaties to which Brazil is a signatory can be found below:  
<https://www.wipo.int/wipolex/en/treaties/ShowResults?code=BR>



There isn't a definite time for registration.

## SPECIFIC INFORMATION REGARDING TRADEMARKS, PATENTS AND INDUSTRIAL DESIGN

### TRADEMARKS

In Brazil, a trademark can consist of words, drawings, letters, numbers, three-dimensional symbols, color combinations, etc.

In addition to product and service marks, collective and certification marks are also accepted. Upon specific application, already registered trademarks can also be recognized as highly reputable marks.

In the country, trademarks are permitted to be registered in the nominative, figurative, mixed, three-dimensional, or positional forms. Sound, taste, and smell marks cannot be protected. Slogans or advertising expressions are also excluded from protection.

#### Regarding registration prohibitions

Trademarks cannot be registered if:

- They lack distinctive character
- They are likely to mislead consumers
- They are contrary to the law, public order, or offend morality and good customs
- They constitute an imitation of other trademarks or third-party rights
- They contain unauthorized names or acronyms of public entities or bodies

For further registration prohibitions, please visit the National Institute's website

#### Who can file a trademark application

Any person carrying out a lawful and effective activity may apply for trademark registration. Brazilian law requires that the products or services identified in the application be compatible with those produced, marketed, or provided by the applicant.

The registration application may be filed by the applicant themselves or through an attorney. If the applicant is domiciled in Brazil, they may file the registration application directly with the INPI without the need to designate a representative. If, on the other hand, the applicant is not domiciled in Brazil, they must be represented by an attorney residing in Brazil.

## How to submit a trademark application in Brazil

The trademark registration application can be submitted online at INPI or through Madrid Protocol.

In case it's done directly at INPI, all documents must be written in Portuguese.

### Registration Process

Once the trademark application has been filed at INPI, it undergoes the following process:

1. Formal examination;
2. Formal requirement: At this stage, formal requirements may be formulated, which must be met, otherwise the application will be considered non-existent. The deadline for meeting a formal requirement is 5 days;
3. Publication of the application in the Industrial Property Journal (RPI), available at <https://revistas.inpi.gov.br/rpi/>
4. After publication, there is a legal deadline of 60 days to file oppositions;
5. Oppositions filed are published in the RPI, beginning a 60-day period for the applicant to submit a statement, which is optional;
6. Once this phase is completed, the substantive examination begins;
7. During the substantive examination, the application may or may not be subject to a requirement;
8. If a requirement is filed, the applicant has 60 days to comply with the requirement. Failure to comply will result in the application being archived;

Once the review is complete, a decision will be issued granting or denying the registration application. INPI decisions may be appealed to the President of the INPI within 60 days.

Decisions to definitively archive and grant a registration application are final. However, after the registration is granted, and within 180 days from the date of issuance of the registration certificate, the INPI or any person with a legitimate interest may initiate administrative nullity proceedings, the decision of which lies with the President of the INPI.

A nullity action may also be instituted judicially within 5 years from the date of registration grant, by the INPI or any interested party.

## PATENTS

In Brazil, inventions can be protected through two types of industrial property:

- Invention Patent
- Utility Model Patent

Patents can be obtained for any invention in all fields of technology, whether for products or processes, as well as for new processes for obtaining already known products, substances, or compositions.

A utility model protects an object, or part thereof, that presents a new form or arrangement that results in a functional improvement in its use or manufacture. A specific process cannot be protected as a utility model; it can only be protected by an invention patent.

Protection is only granted to inventions that are new, involve an inventive step, and have an industrial application. Utility Model protection is granted when it is new, has an inventive step, and has an industrial application. The subject matter of

the patent application must be sufficiently described in the specification, clearly and completely, to allow its reproduction.

Disclosure of the invention prior to filing the application with the INPI should be avoided, as this may render its protection unfeasible.

However, if prior disclosure is necessary and to avoid compromising the novelty, there is a "Grace Period," which allows disclosure of the invention within the twelve months preceding the filing date. However, the safest way to ensure the patentability of the invention is to disclose it only after filing the application with the INPI.

The following cannot be considered inventions or utility models:

- Discoveries, scientific theories, and mathematical methods;
- Purely abstract concepts;
- Commercial, accounting, financial, educational, advertising, lottery, and oversight schemes, plans, principles, or methods;
- Literary, architectural, artistic, and scientific works, or any aesthetic creation;
- Computer programs themselves;
- The presentation of information;
- The rules of the game;
- Operating techniques and methods, as well as therapeutic or diagnostic methods, for application to the human or animal body;
- All or part of natural living beings and biological materials found in nature, or even isolated from it, including the genome or germplasm of any natural living being and natural biological processes.

The following are not considered patentable:

- Anything that is contrary to morality, good customs, public safety, order, or health;
- Substances, materials, mixtures, elements, or products of any kind, as well as the modification of their physical-chemical properties and the respective processes for obtaining or modifying them, when resulting from the transformation of the atomic nucleus;
- All or part of living beings, except transgenic microorganisms that meet the three requirements for patentability (novelty, inventive step, and industrial application) and that are not mere discoveries.

### **Who can file a patent application at INPI**

A patent application can be filed by the applicant themselves or through an attorney. If the applicant is domiciled in Brazil, they can file the patent application directly with the INPI without the need to designate a representative. If, on the other hand, the applicant is not domiciled in Brazil, they must be represented by an attorney residing in Brazil.

### **How to submit a patent application in Brazil**

The patent application can be submitted online at INPI or through PCT.

In case it's done directly at INPI, all documents must be written in Portuguese.

### **Protection Process**

Once the patent application is filed, it undergoes a formal examination to verify compliance with the formal requirements.

If the application is found to be in order, it is published in the Industrial Property Journal. Publication of the application generally occurs 18 months after the date of

its filing (filing of the patent application or the earliest priority). The application may be published earlier if the applicant so requests.

After publication of the application, third parties may submit contributions to the respective technical examination, providing the INPI with reasons or evidence why they believe the patent cannot be granted.

For the application to be subject to examination, the applicant or any interested party must submit a request for examination within 36 months from the filing date of the patent application and pay the corresponding fee, otherwise it will be archived.

Following the examination, the application may be granted or denied depending on whether or not impediments to patentability exist. The INPI's decisions may be appealed to the President of the INPI within 60 days.

No appeal may be filed against the decision to definitively dismiss the patent application or against the decision granting the patent application. However, after the patent is granted and within 6 months, the INPI or any person with a legitimate interest may initiate administrative nullity proceedings, the decision of which lies with the President of the INPI.

The nullity action may also be instituted judicially, throughout the patent's term, by the INPI or any interested party.

## **INDUSTRIAL DESIGN**

This protection applies to the 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 can serve as a type of industrial manufacture.

### **In Brazil, the prohibitions on registration of industrial design are:**

- Industrial designs that show only the technical function of a product or the necessary common or ordinary shape of the object;
- Designs that are contrary to or offend the law, morals, or good customs;
- Designs that offend the honour or image of individuals, or violate freedom of conscience, belief, religious worship, etc.

### **The grounds for invalidity of registration are:**

- Industrial designs that are not new, i.e., identical to another industrial design already registered, published, or disclosed to the public in Brazil or abroad;
- Industrial designs that are not original, i.e., when they result in a visual configuration that is not distinctive in relation to a previous object. An industrial design is considered original if it presents objects or patterns that have unique aspects, express a new trend in formal language, or exhibit unique and singular characteristics;
- Industrial designs that cannot serve as a standard for industrial manufacturing;
- Industrial designs that are purely artistic.

### **Who can file an industrial design application at INPI**

The registration application can be filed by the interested party or through a representative.

If the applicant is domiciled in Brazil, they can file the registration application directly with the INPI without needing to appoint a representative. If, on the other hand, the interested party is not domiciled in Brazil, they must be represented by a lawyer residing in Brazil.

## How to submit an industrial design application

The trademark registration application can be submitted online directly at INPI or through Hague Treaty.

**All documents must be written in Portuguese.**

### Registration Process

Industrial design registration is granted without prior examination for novelty and originality. Therefore, interested parties should conduct a prior search to determine the state of the art.

After the registration is granted and at any time during the registration term, the holder may request a substantive examination for novelty and originality.

If there is evidence that the industrial design already existed prior to the registration application, the registration may be subject to possible nullity, which may be instituted by the INPI itself.

INPI decisions may be appealed to the President of the INPI within 60 days.

No appeal may be filed against the decision ordering the final shelving of the industrial design application or the decision granting the registration application. However, after the registration is granted, and within 5 years from the date of registration, the INPI or any person with a legitimate interest may institute administrative nullity proceedings, the decision of which is ultimately decided by the President of the INPI.

The nullity action may also be instituted at any time during the validity of the registration, by the INPI or by any interested party.

### TAXES

Regarding the taxes related to Patent, Trademark, Industrial Design, Geographic Indication, Services Related to License, Technology Transfer and Franchise Agreements, and Computer Program, at INPI, the table attached to the link bellow is valid until August 06, 2025:

Ordinance No. 516 of September 24, 2019, on Approval of the New Schedule of Fees for Services Offered by INPI



From August 07, 2025, a new table will be valid. You can find it bellow:  
<https://www.in.gov.br/en/web/dou/-/portaria-gm/mdic-n-110-de-5-de-maio-de-2025-628517946>



### TERM OF PROTECTION

- Trademark – 10 (ten) years, renewable for periods of another 10 (ten) years, with no time limit.
- Patent – 20 (twenty) years, if it is an Invention Patent (IP), or 15 (fifteen) years, if it is a Utility Model Patent (MU).
- Industrial Design – 10 (ten) years, counted from the filing date, and may be extended for up to 3 (three) periods of 5 (five) years, totalling a maximum of 25 (twenty-five) years.
- Geographical Indication – no time limit.



- Computer Program – 50 (fifty) years, counted from January 1 of the year following its publication or, failing that, its creation.
- Integrated Circuit Topography – ten years from the filing date or the date of first exploitation (whichever comes first).
- Copyrights – 70 (seventy) years, counting from January 1 of the year following the author's death.
- Plant Variety Protection - 15 (fifteen) years for plant variety in general; 18 (eighteen) years for vines, fruit trees, forest trees, ornamental trees, and their rootstocks.

#### 4. What measures can be taken to prevent violation of registered IP rights, and what should be done if violation occurs?

Regarding steps to prevent an infringement of a registered IPR *in Brazil*, the owner of the IPR can:

##### a. Register the rights properly

Ensure all intellectual property rights are registered with the National Institute of Industrial Property (INPI), as this provides the legal foundation for protection and enforcement.

##### b. Monitor and maintain the rights

Regularly monitor the market and INPI filings to detect possible infringements or confusingly similar applications.

Keep all registrations and records updated, including renewals and changes in ownership or licensing.

##### c. Use protective measures

Use clear notices (®, ©) to indicate ownership.

Incorporate overt and covert features in products to help distinguish genuine goods from counterfeits.

##### d. Register with enforcement databases

For trademarks, it's possible to register in the National Directory to Combat Trademark Counterfeiting managed by INPI, which assists customs and law enforcement in identifying counterfeit goods at borders.

Regarding steps in case an infringement of a registered IPR *in Brazil* occurs, the owner of the IPR can:

##### a. Gather Evidence

Collect samples, photographs, and documentation of the infringing activity.

##### b. Send an extrajudicial notification

It's possible to issue a cease-and-desist letter to the infringer, demanding the cessation of infringement and compensation for damages. This step is often taken before filing a lawsuit.

##### c. Administrative actions

It's possible to file oppositions or nullity actions before INPI to challenge infringing registrations or applications.

##### d. Judicial actions

It's possible to file a civil lawsuit seeking an injunction to stop the infringement and claim material and moral damages.

It's also possible to request a preliminary injunction (court order) for immediate cessation of the infringing activity.

##### e. Criminal actions

Besides the civil lawsuits, in case of counterfeiting or willful infringement it's also possible to file a criminal complaint with the police or public prosecutor's office.

##### f. Border measures

It's possible to request the seizure of infringing goods by customs authorities,

especially if registered in the enforcement database.

These measures help ensure robust protection and enforcement of intellectual property rights in Brazil

## **5. How are unregistered IP rights protected? What steps can be taken to prevent violation and what should be done if violation occurs?**

In Brazil, unregistered intellectual property rights (IPR) have limited protection compared to registered rights, but some protection mechanisms exist:

### **a. Well-Known Marks**

Even if not registered, marks recognized as well-known by the public can receive protection under Brazilian law against imitation or dilution, based on their reputation and distinctiveness. However, this protection is more limited and often requires judicial recognition or INPI acknowledgment.

### **b. Copyright**

Copyright is automatically protected upon creation without registration, but enforcement depends on proving ownership and originality.

In case of infringement of a copyright, it's necessary:

### **a. Gather evidence of authorship and infringement**

Document the creation of the work, dates, versions, and collect evidence of unauthorized reproduction, distribution, or use by third parties.

### **b. Send an extrajudicial notice to the infringer**

Send a formal notification requesting the immediate cessation of unauthorized reproduction or use of the work.

### **c. Judicial actions**

In case the notification is ignored, the rights holder can file a lawsuit to:

- Obtain a court order to stop the infringement (preliminary injunction);
- Claim compensation for material and moral damages;
- Request the seizure and destruction of illegal copies.

### **d. Criminal actions**

Copyright infringement can also be considered a crime in Brazil. Besides the civil lawsuits, it's also possible to file a criminal complaint with the police or public prosecutor's office.

Although copyright registration is not mandatory for protection, it facilitates proof of authorship and creation date in legal proceedings.

## **6. Other useful information.**

### **The main national IP laws**

Law No. 9.279 of May 14, 1996 (Law on Industrial Property, as amended up to Law No. 14.200 of September 2, 2021)

Law No. 11.484 of May 31, 2007 (Law on Integrated Circuit Topographies, as amended up to Law No. 14.302 of January 7, 2022)

Law No. 9.610 of February 19, 1998 (Law on Copyright and Neighboring Rights, as amended up to Provisional Measure No. 907 of November 26, 2019)

Law No. 9.456 of April 25, 1997 (Plant Variety Protection Law, as amended up to

Law No. 13. 606 of January 9, 2018)

Law No. 9.609 of February 19, 1998 (Software Protection Law)

The full list of IP laws in Brazil can be found below:

<https://www.wipo.int/wipolex/en/members/profile/BR>

