



## ABPI President opens Congress praising backlog fight

► In a grand opening with great visual impact, showing an institutional video of ABPI and before an audience of over 700 participants, Luiz Edgard Montauray Pimenta chaired the official opening of the XXXIX Congress on Intellectual Property - the largest of its kind in Latin America. In his address, the President highlighted the new administration measures on Intellectual Property like moving the sector

to the Ministry of Economy, adhesion to the Madrid Protocol and especially the plan for fighting backlog, started by INPI's new management. "It is not ideal, but it represents a great advance", said Montauray. "The way it stood, backlog was unacceptable and shamed Brazil at international events", he added.

In his address, ABPI President also men-

tioned important actions concerning Intellectual Property - such as the Complementary Act 143/2019 of Congressman Marcos Pereira, that was approved last week at the House Commission of Economy, Industry and Services Development, dealing with INPI's financial autonomy - a long standing issue for ABPI. He also mentioned the Bill of Law o PL 2334/2019, of the same Congressman Marcos Pereira, that allows the institute to enter partnerships and qualify external professionals to help in patents analysis and registration ◀◀

## End of backlog valorizes examiners

▶▶ The end of patent applications backlog will valorize examiners' career, stated last Saturday, 24, the General Coordinator of INPI Patents department, Cláudia Magioli, during the panel on "Discussing the new guidelines for patent examinations in the area of biotechnology". "We will then have time to update guidelines and improve procedures", she said. The table discussions had the participation of Gabriela Neves Salerno from Montaury Pimenta, Machado e Vieira de Mello, Ludmila Kawakami Ávila from Di Blasi, Parente & Associados, Alex Gonçalves de Almeida from Magellan Propriedade Intelectual, and Priscila Thereza de Barros Yamashita from Gusmão & Labrunie Advogados.

According to the Coordinator, the training of new examiners should be revisited. That includes adjusting procedures in the Backlog Fight that is now being implemented by the new management. The new system will bring



up opinions of the so-called 6.21 filings, using the results of searches already carried out in other countries' patent offices. "Today at CGPAT II 70% of examiners are dealing with 6.21, which will facilitate applications analysis -and we have made good progress", said Magioli. She added that in the areas of biotechnology, applications examined by last week's 6.21 filings had been deposited

between 2011 and 2014.

During her presentation Claudia Magioli explained the INPI Public Consultation process regarding the guidelines for patent application in biotechnology, which was launched in February this year by GPAT II General Coordination. A total of 18 organizations sent their recommendations. "Next week we will start working on these", she said ◀◀

## Legalization increased cannabis consumption in Canada

▶▶ The Canadian experience in Cannabis legalized consumption and production showed that challenges for countries that wish to follow the same path are not minor, as agronomist Eduardo Fonseca, from Moffat & Co. pointed out. Operating in Canada and the US, his office specializes in intellectual property. Fonseca was one of the speakers in the round table "Reflections on the challenges of protecting cannabis cultivars: Canada experience", held on Saturday, August 24. He was joined by Maria Isabel Castro Bingemer from Dannemann Siemsen, Priscila Mayumi Kashiwabara from Kasznar Leonardos Propriedade Intelectual and Camila Garcindo Dayrell Garrote from Demerest Advogados.

Access to Cannabis for medical purposes is authorized in Canada since 2001, but in June last year the Canadian senate passed the Cannabis Act (Bill C-45), which also legalized consumption for recreational use. With legalization, the government saw a surprising increase in demand for cannabis. The 1-ton yearly production, said Fonseca, was not able to meet demand, thus fostering illegal consumption while black market prices soared. According to the agronomist, who lives in Ontario and closely followed the cannabis legalization process in Canada, production is the most complex link in the whole chain. "Cultivation has strict requirements, from 24-hour vigilance cameras on site, to employees personal search, police records, to name a few", explained the speaker ◀◀

## ABPI economy study now updated

▶▶ Participants of the XXXIX Congress are getting the book "Intellectual Property and Development in Brazil", a study made by economists Antônio Márcio Buainain, from the University of Campinas (Unicamp) and Roney Fraga Souza from the Federal University of Mato Grosso (FEUFMT). The book expands and updates the document "Intellectual Property, Innovation and Development: challenges for Brazil" that was presented during the last ABPI Congress, a year ago.

The publication includes important addenda, such as a reflection on IP in the light of digital economy, plus a text on the recent measures recently adopted by the INPI, highlighting the reduction on patent application backlog. "The statistical update confirms the main aspects of recent records in Brazil such as the lag in the area of innovation, poor development as compared to more advanced countries, the growing importance of commodities exports and the waning of the industry, also pointing to the urgent need for structural reforms and more consistent policies to reverse this negative trend", said Buainain ◀◀

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# Reform of Social Security legislation to drive Brazilian growth

►► If the Social Security law reform is passed, there will be a deluge of investments in Brazil”, said Ricardo Amorim yesterday, August 25, in his inaugural speech of the ABPI XXXIX International Congress on Intellectual Property, to an audience of over 700 participants, among which 130 were foreign visitors. In his view, as soon as the Social Security fiscal bleeding that grows by R\$ 50 billion a year is stopped, the country will again attract foreign investments. “Considering the size of our market and the investment potential, foreign companies cannot afford not to invest in Brazil”, he said.

The economist believes that Brazil, as well as China, Russia and Indonesia, has the rare conditions of a country with a very attractive market potential and low assets costs. “Other countries have low growth potential and are not in the sight of investors”,



he stated, recalling that since the Temer administration Brazil has been adopting measures to recover the economy. Last year, according to Amorim, the country ranked third among the world’s largest investments recipients, after China and the United States. “Brasil is really very low cost”.

Amorim is convinced that Congress will pass the reform law. This will greatly alleviate the fiscal burden of social security deficit, that reaches R\$ 450 billion, and of public debt interests, that also grow exponentially.

Brazil will enter a prosperity cycle in the coming years, but Amorim reminds that “there is another bomb in the way that needs to be disarmed”. He meant the global repercussion of Amazon fires, that are being associated to government neglect of environmental policies and have given rise to negative reactions in countries such as France and Norway. “With the economic advances now happening, if the government does not put the world against us, investments will come pouring”, said Amorim ◀◀

## The world at ABPI Congress



►► To welcome over 700 participants, including 130 international visitors, ABPI installed an exhibition area for the XXXIX International Congress on Intellectual Property with stands of company and entities operating in the intellectual property arena. In that pavilion Congress participants will find the institutions they want to contact and know what has been done in Intellectual Property

around the world.

Present were the major sector institutions namely ABAPI - Brazilian Association of Intellectual property Agents, AIPPI - International Association for the Protection of Intellectual Property, ASPI - Paulista Association of Intellectual Property, French FICPI - International Federation of Intellectual Property Attorneys, LES Brasil - Brazilian Association

of Licensing Executives, WIPO - World Intellectual Property Organization and IDS Dannemann Siemsen Institute. “We are very proud to gather here in this space those who are not only the major institutions from the sector, but also true strategic partners for the development of Intellectual Property market”, stated Luiz Edgard Montauray Pimenta, ABPI president ◀◀

## Legislation on Image rights is controversial



▶▶ The civil nature of image rights, as defined by Article 87-A of the General Sports Act, is antagonistic to - and even opposed to - the view of a few doctrine makers, and is not followed by jurisprudence, said judge Ricardo Georges Affonso Miguel, of the 13th Court of Labor in Rio de Janeiro in his talk during a pre-event session on Sunday, 25. "The law states that image rights pertain to civil law, but also must comply with labor laws", said the judge. The panel on "Athletes Image rights - relevant labor and tax-related aspects" was also attended by Fernanda Magalhães from Kasznar Leonardos, João Marcos Gebara from Murta Goyanes Advogados and Regina Sampaio from Confederação Brasileira de Futebol (Brazilian Football Confederation). "The civil nature of image rights will only be a labor issue on the grounds of fraud", he added.

On Affonso Miguel's evaluation, the Labor Court judge presupposes that image rights must be part of the athlete's economic profit, while the opposite would characterize unlawful gain by the Club. "I find some difficulty managing these two antagonistic concepts, but the legislation allows for third parties gain through cession of image rights." "However, there are cases where the image right is concrete and, depending on the contract, the Club may or may not explore the image", explained the judge.

The controversial interpretation of Article 87-A of the Sports Act gives way to a great number of Labor suits covering image rights and this represents a heavy burden for Clubs. "Even if the Club management is a private company, it is subject to Labor Court rulings that jeopardize the Club business" ◀◀



## Madrid Protocol Notifications must be published

▶▶ In the frame of the Madrid Protocol, and so that international applicants of a brand may be aware of the fact, the INPI should publish any failure in application filings sent to the institute by WIPO. This recommendation is part of the suggestions made by Associations ABPI and ABAPI (Intellectual Property Agents Association) that were submitted during the panel "What to expect from INPI: a roundtable of associations on public consultations on multi-class, co-ownership, registration splitting and the Madrid Protocol", held on Sunday, 24. At the table were Ana Lúcia de Souza Borda e Rafael Atab de Araújo from Dannemann Siemsen, Liz Stirling from Kasznar Leonardos, Alexandre Fragoso

Machado from Campedelli Advogados and Diana Marques Vieira de Mello from Montauray, Pimenta, Machado & Vieira de Mello.

In Article 7 of the Public Consultation on the Madrid Protocol, the associations have included a paragraph which reads: "Communication on notification, so that the applicant may proceed to make the necessary corrections with the INPI". On the item that deals with "communications on corrections made by INPI and forwarded to the International Secretariat", the following words were added: "when corrections do not impact on the scope of the protection requested."

In the rationale for their submission, the associations stressed that: "although it is provided for the INPI to submit "ex-officio" any manifestation, publicity of the acts is not discretionary as it stems from the constitutional principle and therefore the applicant should necessarily be informed." ◀◀

## European Directive on copyrights to be revised

▶▶ The new European Board for Copyrights which was created to fight Internet piracy, raised many doubts - especially among the press representatives, said last Saturday, 24 the General Secretary of Visapress, Carlos Eugênio during a panel with General Director of GEDIPE, Antonio Paulo Santos; Ana Erika Marota Marques from Fundação Roberto Marinho; Ygor Valério from LTAHUB and Paula Mena Barreto from Campos Melo Advogados. "The printed media withstood a heavy blow from the Internet revolution, but the main problem was the business model sold by the large proprietary information platforms", pointed out Eugenio. "Those digital era giants make millions in advertising - once the traditional income source for the printed media."

According to Eugênio, despite the advances made with the new directive, especially on audiovisual works, many of the provisos in Article 15 remain debatable, as they do not effectively protect journalism content producers. Eugenio considers that while for music and audiovisual works protection covers up to 70 and 50 years' respectively after the author's death, press content protection is merely 2 years. "This makes no sense, since news and releases are permanent materials that allow people to understand an era", he argued.

Another debatable point refers to the fact that only content producers who store "large amounts" of information are subject to the new directive. "How can you define what constitutes 'large amounts'?" he asked. Another point is whether protection is valid only for the digital environment or it also applies to content that was digitalized and posted on the internet. "These are questions that will need to be addressed in the near future", he concluded.

A new revision of the European directive on copyright is in fact scheduled for July 2026 ◀◀

### EXPEDIENTE

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