

## BRAZIL



In an attempt to reduce the existing patent examination backlog, and according to recent Court decisions which ordered the Brazilian Patent and Trademark Office (BRPTO) to examine longstanding cases, a series of measures have been adopted.

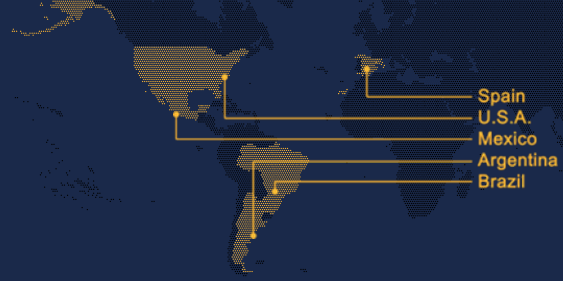
**On June 30, 2020 the Brazilian PTO published Resolution No. 247/2020 in the Official Bulletin No 2582. Please find below the main measures:**

### Definitions

- I. International patent application: patent application filed under Patent Cooperation Treaty (PCT);
- II. Patent procedure: administrative procedure, in the sphere of the BRPTO, for the protection of Intellectual Property rights, by granting a patent for invention or utility model, since the filing of the patent application or, in the case of an international application, communication or referral until the closure of the administrative body; and
- III. Patent family: a set of patents and/or patent applications, national or with effect from regular nationals, directly related to each other by claiming internal or unionist priority and/or by sharing the same international filing.

### Requirements of the procedure and of the application

- I. Having been filed for at least 18 (eighteen) months or with an application for early publication in accordance with the provisions of Art. 30 of Law 9.279 of 14 May 1996 or, in the case of international applications, published by the World Industrial Property Organization (WIPO);
- II. Having collected the remuneration for the technical examination, as provided for in art. 33 of Law 9,279 of 1996;



- III. Having no procedural priority;
- IV. There can not be a, voluntarily, division or modification of the patent application by the applicant between the application and the decision on the priority procedure; and
- V. Fall within one of the modalities described in Title II of this Ordinance.

**The following categories are eligible for fast-track examination:**

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| <ul style="list-style-type: none"> <li>I. Elderly applicants;</li> <li>II. Applicants with physical or mental disabilities or serious diseases;</li> <li>III. Applications filed by small entities;</li> <li>IV. Scientific, technological and innovation institutions (ICTs) or startups;</li> <li>V. Applications involving green technologies;</li> <li>VI. Applications related to HIV, cancer, rare or neglected diseases, or for treating COVID-19;</li> </ul> | <ul style="list-style-type: none"> <li>VII. Applications involving technologies of interest to the MoH;</li> <li>VIII. Applications involving technologies of public interest or national emergency;</li> <li>IX. Applications which grant is a condition for obtaining financial resources by national credit institutions;</li> <li>X. Applications involved in potential infringement or prior use;</li> <li>XI. Applications which patent family started in Brasil.</li> </ul> |
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Considering that many of the technologies related to COVID-19 are currently under development, we can foresee the need to request for early publication, as well as the request for examination prior to the deadline (36 months from the filing date, or international filing date in case of PCT applications).

According to the BRPTO, the time to analyze whether a patent application is eligible for a programme should be up to one month and the application should be examined in about four months.