

BRAZIL



On July 4, 2023, the Brazilian Patent and Trademark Office (BRPTO) published Ordinance No. 25/2023, which establishes procedures for Industrial Design designations and registrations for Brazil under the Geneva Act of the Hague Agreement concerning the International Deposit of Industrial Designs.

Procedures as a Designated Contracting Party

International design applications under the Hague System allow applicants to submit a single design application to the International Bureau of the World Intellectual Property Organization designating the contracting parties in which protection is sought. The Hague System will come into force for Brazil on August 01, 2023.

Communications between the International Bureau and the Brazilian PTO relating to design applications shall be written in English. However, when acting directly before the Brazilian PTO, documentation to reply office actions and refusals must be filed in Portuguese, through a fully licensed attorney resident in Brazil.

When the priority of an earlier filing is claimed, the applicant of the international registration must submit to the Brazilian PTO, within 90 (ninety) days of the date of publication of the registration, a certified copy of the earlier application, which must contain the date, number, and figures, accompanied by its simple translation.

Nevertheless, if the Office where the priority application was filed participates in the WIPO Digital Access Service (DAS) for design applications, an access code (DAS code) may be indicated in the international design application. As the BRPTO participates in DAS as an "accessing Office," the applicant is then exempt from the presentation of a certified copy of the priority application referred to previously.

Within 6 (six) months of receiving information of Brazil's designation, the Brazilian PTO shall issue to the International Bureau:

- (i) a notification of rejection of protection; or
- (ii) a declaration granting protection, referring to the approval of the designation.

If the Brazilian PTO does not provide a notification of rejection within this time frame, protection for the designation of Brazil will be granted.

The declaration providing designation protection shall be published in the Brazilian PTO's official means of communication.