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1. After Years of Waiting, Yours or Your Competitor's Patent Application May Quickly issue in Brazil

**BRPTO TO GRANT
231,000 PENDING
PATENTS TO REDUCE
BACKLOG OF
UNEXAMINED
APPLICATIONS THAT
HAVE PENDENCY OF 10
YEARS**

The Institute National Propriedade Industrial (INPI), also known as the Brazilian Patent and Trademark Office (BRPTO), may soon automatically grant approximately 231,000 currently pending patent applications in an effort to reduce the backlog of unexamined patent applications that have plagued the office for years. As many of our readers know, the backlog of unexamined applications has resulted in pendency periods on average of at least ten (10) years. Although expedited examination is available for green technologies, oil and gas technologies (under the patent prosecution highway (PPH), limited pharmaceutical applications.

[Read more](#)

2. Life in the Lowercase Lane: Lessons for Trademark Owners About Genericide

**GENERICIDE IS A FORM
OF ABANDONMENT. A
MARK WILL BE
"ABANDONED" IF,ITS
USE HAS BEEN
DISCONTINUED FOR
THREE YEARS**

Death by genericide is a painful way to go, for trademarks that is. When the public comes to think of a trademark as the common word for a product or service -- as opposed to identifying its exclusive source -- the trademark loses its distinctiveness, and the owner loses the ability to exclude others from using it. Essentially, it becomes worthless. Former brands like ZIPPER, ASPIRIN, TRAMPOLINE, and ESCALATOR, to name a few, have lost their "badge of origin" and are now simply part of the lexicon of everyday words - the lowercase ones, carrying no commercial value.

[Read more](#)

3. Stronger Patents Act: 5 Significant Proposed Changes to Inter Partes Reviews

APART FROM PROPOSED CHANGES, STRONGER PATENTS ACT WOULD ALSO CHANGE THE DEFINITION OF "REAL PARTY IN INTEREST"

Recently, Senator Christopher Coons (D-Del) introduced the STRONGER Patents Act of 2017. So far, this is the only legislation introduced in this Congress addressing any sort of patent reform. The proposal would significantly change inter partes review proceedings before the Patent and Trademark Appeal Board ("PTAB").

What is an Inter Partes Review?

An inter partes review ("IPR") is a third-party administrative proceeding filed with United States Patent and Trademark Office ("USPTO") that challenges whether a patent should have been granted. [Read more](#)

4. Recent Design Decisions Provide Insight for Design Patent Prosecution

INSIGHT INTO HOW EVENTS THAT HAPPEN DURING PROSECUTION MAY AFFECT PROCEEDINGS BEFORE THE PTAB.

Three recent decisions relating to design patents provide useful insights into design patent prosecution. First, the PTAB recently instituted two IPR petitions directed to design patents, bringing the total number of instituted design petitions to nine. In addition, the Central District of California recently found a design patent directed to an interlocking floor mat to be invalid as obvious on summary judgment.

In a November 2016 post, we discussed a series of petitions Skechers filed against Nike involving design patents directed to athletic shoes. At that time, all eight of Skecher's petitions were denied institution by the Patent Trial and Appeal Board (PTAB). [Read more](#)

5. Thailand's IP office starts accepting sound trademarks

**FINALLY, THAILAND'S IP
OFFICE STARTED THE
PROCESS OF
REGISTRATION OF
SOUND TRADEMARKS**

The Thai Department of Intellectual Property has begun accepting applications for the registration of sound trademarks.

According to law firm Tilleke & Gibbins, the department began accepting the applications on Friday, September 1. Under clause 11 of ministerial regulation number 5 BE 2560, applicants must submit a detailed written description of the sound. They must specify whether the sound is categorized as a human sound, an animal sound, a piece of music/melody, or another type of sound. An audio recording of the mark in a digital file format, with a maximum length of 30 seconds, must also be submitted.

[Read more](#)

6. Significant Changes Ahead for Australian Patents

**PROPOSED CHANGES
ARE LIKELY TO BE
REFLECT EPO WHICH
INCLUDES AMENDING
INVENTIVE STEP,
TECHNICAL
FEATURES IN CLAIMS
AND OBJECT CLAUSE IN
PATENT ACT**

The Australian Government has proposed significant changes to Australian patent law following an inquiry into the IP system recently completed by its advisory body, the Productivity Commission. These include:

- 1. Amending the inventive step threshold to reflect that of the European Patent Office*
- 2. Phasing out innovation patents*
- 3. Requiring applicants to identify an invention's technical features in their claims, and*
- 4. Adding an objects clause to the Patents Act.*

Inventive step

The Government supports amending the Patents Act so that an invention will only involve an inventive step if, having regard to the prior art base, it is not obvious to the skilled person.

[Read more](#)

7. Asia Regulatory Roundup: Drug makers Push Back on Data Requirements in Australia's Provisional Approval Pathway

BIG DRUGMAKERS PUSH BACK AGAINST QUALITY DATA REQUIREMENTS IN TGA PROVISIONAL APPROVAL PLAN

A who's who of leading drug makers has raised concerns about the proposed data requirements for Australia's provisional approval pathway. The concerns center on the potential for the need to provide months of stability data and achieve good manufacturing practice (GMP) clearance to limit the impact of the pathway. The Therapeutic Goods Administration (TGA) wants to set up the provisional approval pathway to enable companies to cut the time it takes for highly-promising medicines to reach patients. TGA outlined its plans for the pathway in a consultation text earlier this year and asked companies for feedback on whether they fore-saw difficulties with the proposed data requirements. [Read more](#)

8. 35 U.S.C. 103 CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER.

PATENTABILITY SHALL NOT BE NEGATED BY THE MANNER IN WHICH THE INVENTION WAS MADE.

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. [Read more](#)

9. Changes to EU Trade Mark Practice in October 2017

**EU TRADE MARK
PRACTICE CHANGES ARE
LIKELY TO BE INTERMS
OF GRAPHICAL
RESPRESENTA-
TION, CERTIFICATION
MARKS (FOR GOODS AND
SERVICES), SUBSIDIARY
CLAIM, PROCEDURAL
CHANGES (PRIORITY,
ERRORS, EVIDENCE,
DISCLAIMING)**

On 1 October 2017 a number of important changes to EU Trade Mark Practice will take effect.

Here is what you need to know:

1. Removal of the Graphical Representation Requirement

Trademarks will no longer be required to be 'represented graphically' in a EUTM application. Signs can be represented in any appropriate form using generally available technology, as long as the representation is clear, precise, self-contained, easily accessible, intelligible, durable and objective. The aim of the provision is to make trade mark entries on the EUTM Register clearer, more accessible and easier to search for, while reducing the rate of formal objections. The significant change should make it easier to register non-traditional marks, such as sounds, motion/movement marks, multimedia marks and holograms, by filing them in an electronic format such as MP3, MP4 and JPEG.

2. Introduction of EU Certification Marks

Certification marks are a new type of trade mark at EU level, although they already exist in some other territories, including the UK. Certification marks can be used to indicate that goods and services bearing the mark comply with standards or requirements set by a certifying institution or organization.

[Read more](#)