

**Kasznar** <sup>1919</sup>  
**Leonardos**

**INTELLECTUAL  
PROPERTY  
BRAZIL**

**09/13**  
**#4**

# New **resolution** about the recognition of the **highly reputed** trademark status in Brazil

By Paola Ilia Blanco Kölbe and Flávia Tremura Polli Rodrigues

**O**n August 19, 2013, the Brazilian PTO published the Resolution number 17/2013, which sets the new rules for the recognition of the highly reputed status of trademarks. This resolution will enter into force on the date of the publication of the new official fees for this procedure, but, until now, the BPTO has not informed when this will happen.

The main innovation brought by this Resolution is the adoption of a standalone procedure, which allows the titleholder to request, at any time, the recognition of high reputation for its trademark before the Brazilian PTO. This request can be made directly in the dockets of its respective registration, without any link to third parties procedures.

The main requirements for a trademark to be recognized as highly reputed by to the Brazilian PTO are:

- a) Being considered so by a wide portion of the public in general;
- b) The high quality, reputation and prestige that the public attaches to the brand as well as to the products or services that it marks; and
- c) Being recognized as a unique and distinctive brand.

The decision that declares or denies the highly reputed status may be appealed by the applicant.

The highly reputed status will be in force for 10 years, as long as the trademark registration remains also in force. After this 10-year period, it will be possible to file a new high reputation request.

Trademark owners with pending highly reputed recognition requests made through the former procedure – by means of oppositions or administrative nullity procedures – and that already paid the specific official fee must file a petition in the dockets of their case. This is to ensure that the evidence presented with the objections will be examined by the Brazilian PTO. This petition is exempt from the official fee and must be submitted within 90 days as from the date the Resolution comes into force. Additional documents can also be submitted.

In the absence of the timely filing of the said petition, the BPTO will raise an Official Action when examining the opposition or the administrative nullity procedure grounded on a request for recognition of the highly reputed status, in order to bring such request for recognition in line with the terms of the present Resolution. Should the titleholder fail to meet the requirements, the request will be ignored, and the opposition or administrative nullity proceeding will be analyzed only with basis on his other arguments, if any.

This new procedure has been adopted by the Brazilian PTO to speed up the recognition of highly reputed status of the most valuable trademarks in the market, ensuring due protection to these distinctive signs and discouraging practices such as infringement, unfair competition, and parasitic exploitation, among others.

It is important to carefully analyze the trademark image in the market, in order to promptly attest that such distinctive sign should have a broad protection. In this sense, we will be pleased to assist you.

André Venturini | Cláudio Roberto Barbosa |  
Denise Dale | Eduardo Colonna Rosman |  
Elisabeth Kasznar Fekete | Fabiano de Bem da Rocha |  
Filipe Leonardos | Gabriel Leonardos |  
Gustavo Barbosa | João Luis Vianna |  
Liz Starling | Marcelo Leite | Nancy Caigawa |  
Rafael Lacaz Amaral | Ricardo Boclin |  
Ronaldo Varella Gomes | Sonis Souza | Tatiana Silveira

[kasznarleonardos.com](http://kasznarleonardos.com)