

World Environment Day and BPTO Green Patent Programme



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Intellectual Property, Brazil

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Introduction

Almost 50 years ago the United Nations chose 5 June to celebrate World Environment Day. Each year, a theme is chosen to be discussed by various global entities connected to this subject, aiming to generate positive initiatives for the environment. In 2021, the theme – "REIMAGINE. RECREATE. RESTORE." – aimed to encourage reflection and action on the revitalisation and protection of natural ecosystems.

Brazil recently took an important step regarding biodiversity in its ratification of the Nagoya Protocol, an international agreement that establishes rules relating to the fair and equitable sharing of benefits obtained from the use of genetic resources of the signatory countries. Among other things, the ratification of the protocol gives Brazil the opportunity to encourage national research for the development of new technologies in several areas (eg, agribusiness and the pharmaceutical and cosmetic industries).

Green Patent Programme

In view of this promising scenario, it is essential to provide adequate protection for new technologies, adding even more value to the obtained results. It is well known that the number of patents in the environmental area, which protect so-called 'green technologies', has increased in recent years worldwide. However, many scientists and inventors, whether Brazilian or foreigners, are still unaware that the Brazilian Patent and Trademark Office (BPTO) encourages the filing of patent applications in the environmental field through a programme to fast-track the examination of such inventions.

Initially launched by the BPTO as a pilot project in 2012, the Green Patent Programme became a permanent service in 2016 due to its success. Through this programme, applicants can request an accelerated examination of their patent application before the BPTO if it is related to one of the following areas:

- alternative energies;
- transport;
- energy conservation;
- waste management; or
- sustainable agriculture.

These five categories were inspired by the World Intellectual Property Organisation's International Patent Classification Green Inventory, which was created with the objective of facilitating research on patent information relating to the environmentally sound technologies listed by the United Nations Framework Convention on Climate

Change.

Green Patent Programme uptake

According to the BPTO, since the beginning of the programme in 2012, 977 requests for priority examination based on green technologies have been made so far. Among these requests, 954 have already been examined, with 745 having been accepted and 167 having been rejected (Figure 1).

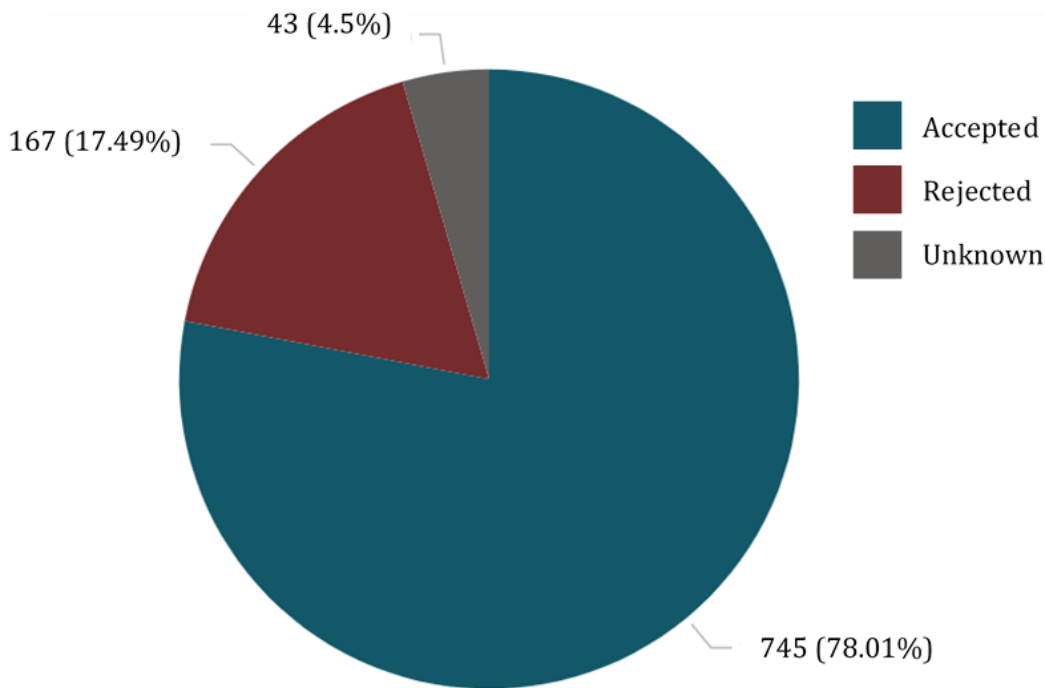


Figure 1: requests for priority examination since 2012

As can be seen, 78% of the requests for fast-tracking examination of patent applications relating to green technologies that have been filed so far have been accepted by the BPTO. After such acceptance, the BPTO takes an average of 619 days to issue a decision on the technology's patentability – approximately one year and eight months. In this regard, the fast-tracking of examinations based on green technology is undeniably an excellent option to speed up the granting of green patents in Brazil since the examination timeframe for these applications is much faster than the average timeframe for a regular patent application, which can be over 10 years, depending on the technological field.

Although the numbers show that the BPTO's Green Patent Programme has been very efficient – 78% of the requests made so far have been accepted and the prosecution timeframe has been drastically reduced by more than 80% compared with a regular examination – it appears that this type of fast-track examination is not well known by foreigners. By a large margin, Brazil is the country with the highest number of requests (712) followed by the United States (95) (Figure 2).

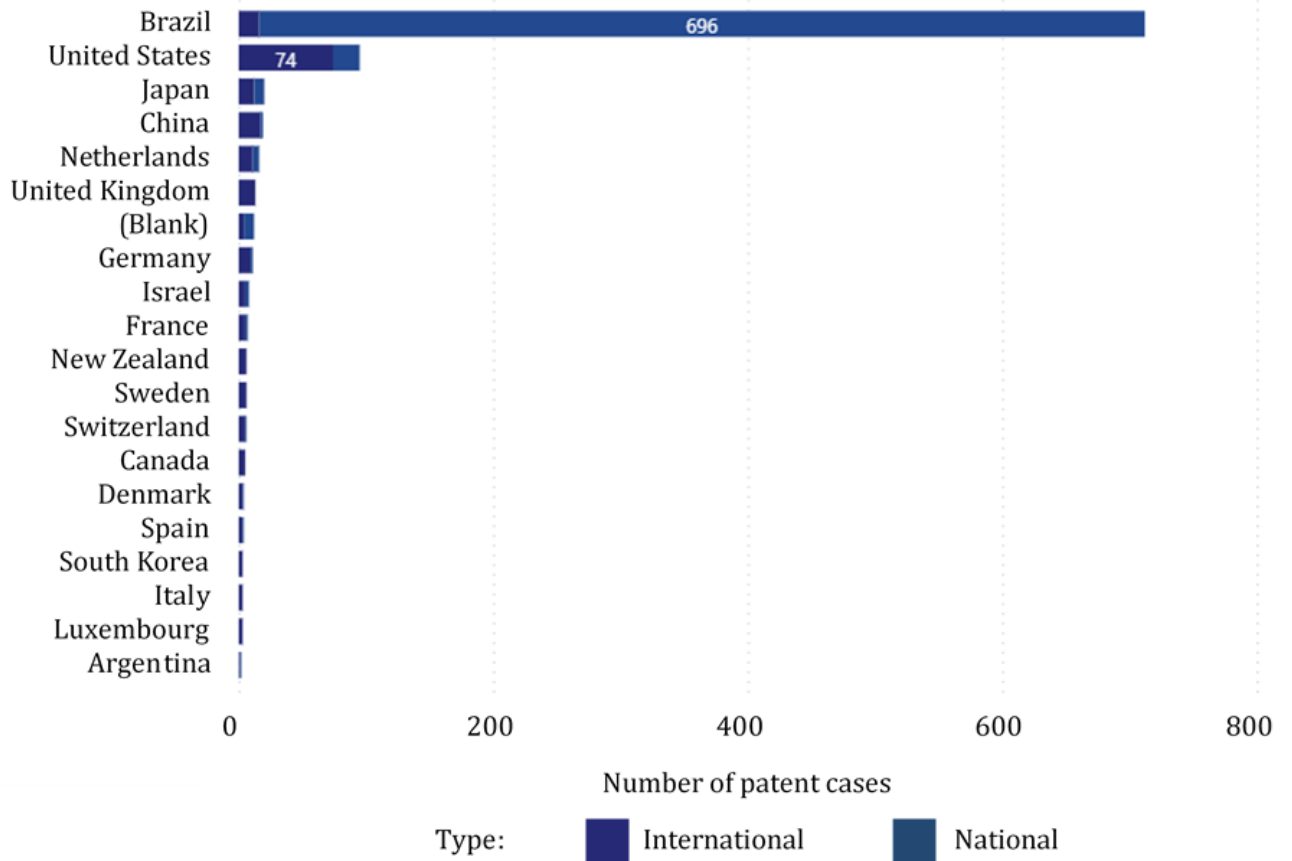


Figure 2: number of Green Patent Programme applications per country

Further, it appears that among the requests for green patents in Brazil, the majority of applicants are concentrated in the southeast region (Figure 3).

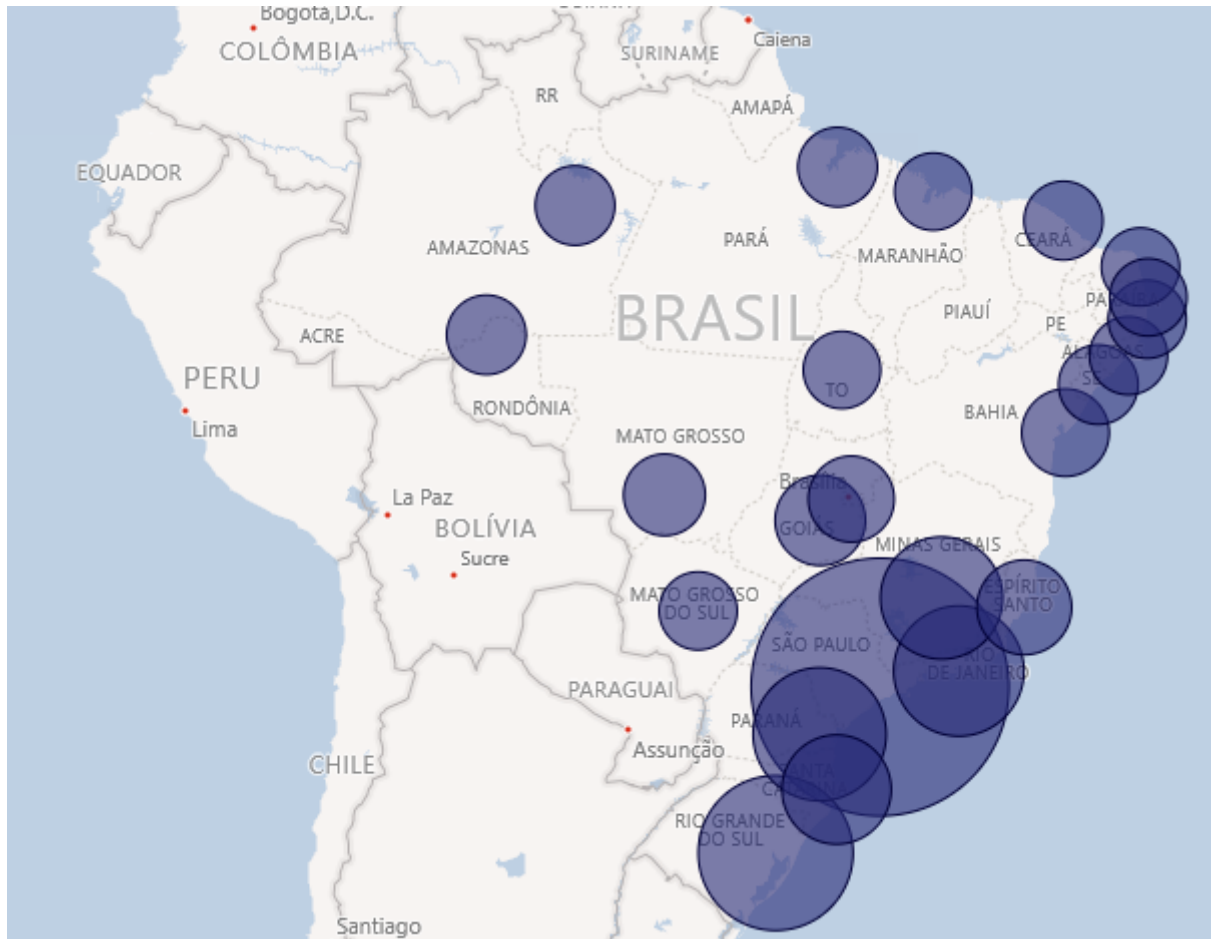


Figure 3: concentration of Green Patent Programme applicants in Brazil

Comment

Therefore, the next step is to disseminate the Green Patent Programme in other Brazilian regions and abroad, so that more companies can use this procedure to expedite the granting of patents relating to green technologies in Brazil, thus enabling the efficient and profitable negotiation of these technologies in a shorter period.

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