

BPTO's ordinance regulates Position Marks and expands intellectual property protection in Brazil

Brazil | September 22 2021

This Tuesday, September 21, 2021, the Brazilian Patent and Trademark Office (BPTO) published a new ordinance that regulates position marks in Brazil.

In Article 1, the regulation states that:

" will be registrable as a position mark a distinctive set capable of identifying goods or services and distinguishing them from others that are identical, similar or alike, provided that it is formed by the application of a sign in a singular and specific position of a given support; and the application of the sign in a said position of the support may be dissociated from the technical or functional effect".

According to the new resolution, aside from filing new applications for position marks, applicants will be allowed to modify existing pending trademark applications that can be considered position marks.

Until today, many applicants would seek to acquire trademark rights over these signs by filing such as figurative marks, for instance. Another alternative, was to obtain their recognition in Court, a far more costly and slow process. So, the formal acceptance of position marks is indeed a piece of good news that guarantees a more extensive protection for trademark owners in Brazil.

This new resolution will come into force on October 1st, 2021.