



MINISTÉRIO DA ECONOMIA
INSTITUTO NACIONAL DA PROPRIEDADE INDUSTRIAL
DIRETORIA DE PATENTES, PROGRAMAS DE COMPUTADOR E TOPOGRAFIAS DE CIRCUITOS INTEGRADOS.

Comunicado

Em obediência à decisão da ADI 5529, proferida em 13 de maio de 2021, pelo Ministro Dias Toffoli, que extinguiu o dispositivo previsto no parágrafo único do art. 40 da LPI, o mesmo não será mais aplicado às patentes concedidas a partir desta data. Isto significa que todas as patentes de invenção concedidas a partir desta data terão vigência de 20 anos e que todas as patentes de modelo de utilidade concedidas a partir desta data terão vigência de 15 anos, contadas a partir da data de depósito.

Além disso, considerando a modulação da decisão publicada em 14 de maio de 2021, que estabelece o efeito *ex tunc*, retroativo, às patentes relacionadas a produtos e processos farmacêuticos e a equipamentos e/ou materiais de uso em saúde, informamos que as patentes destas áreas sofrerão ajustes nos seus prazos de vigência, conforme estabelecido abaixo.

Para fins de ajuste de vigência e de eventual extinção, foram consideradas todas as patentes concedidas com alguma extensão de prazo (nos termos do extinto parágrafo único do Art. 40), que ainda estavam vigentes em 14/05/2021.

As patentes concedidas com extensão de vigência foram divididas em dois grupos: i) patentes que ainda não ultrapassaram 20 anos da data do depósito (ou 15 anos, para modelos de utilidades); ii) patentes de invenção que ultrapassaram 20 anos da data do depósito (ou 15 anos, para modelos de utilidades). Desta forma, considerando estes dois grupos, temos as seguintes situações:

- Patentes relacionadas a produtos e processos farmacêuticos e a equipamentos e/ou materiais de uso em saúde, concedidas com extensão de vigência, mas ainda fora do prazo de extensão em 14/5/2021 serão REPUBLICADAS, para ajuste de vigência;
- Patentes relacionadas a produtos e processos farmacêuticos e a equipamentos e/ou materiais de uso em saúde, concedidas com extensão de vigência e já no prazo de extensão em 4/5/2021 serão REPUBLICADAS, para ajuste de vigência, e EXTINTAS.

Para seleção das patentes relacionadas a produtos e processos farmacêuticos e a equipamentos e/ou materiais de uso em saúde que sofrerão verificação pelo INPI, para fins de republicação da carta patente ou de extinção, foram utilizados os seguintes critérios:

1. Patentes enviadas para análise da ANVISA, para fins de concessão de anuência prévia;
2. Patentes com classificação IPC A61B, A61C, A61D, A61F, A61G, A61H, A61J, A61L, A61M, A61N; H05G (tecnologias associadas à medicina segundo a OMPI);
3. Patentes com classificação IPC A61K/6, C12Q/1, G01N/33, G16H;
4. Patentes com decisão de ação judicial publicada (despacho 19.1);
5. Certificados de Adição concedidos.

Na presente RPI está sendo publicada uma segunda lista contendo 2.114 patentes relacionadas à **Tecnologias Aplicadas à Medicina da OMPI**, que sofrerão correção da data de vigência, através da retificação da carta patente, e eventual extinção, para os casos em que o prazo de extensão da vigência já estiver sendo usufruído.

LISTAS ADICIONAIS serão publicadas nas próximas RPIs, conforme a análise dos casos for sendo concluída pela equipe da DIRPA.

**Diretoria de Patentes, Programas de Computador e
Topografias de Circuitos Integrados**

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