

## BILL #2056 OF 2022

(Alexis Fonteyne)

Amends Statute #5,648 of December 11, 1970, which creates the Brazilian Patent and Trademark Office (BRPTO) and makes other provisions, and Statute #9,279, of May 14, 1996, which regulates rights and obligations related to industrial property, to promote modernization and efficiency of the patent system.

### The National Congress decree:

Article 1. Statute #5,648 of December 11, 1970, as of now in force with the following changes:

“Article 6 .....

Paragraph 1. The President of the BRPTO shall, observing the maximum interval of 2 (two) years, publish a report with an analysis of its structural adequacy and personnel adequacy, indicating, at least, the issues found, the demand for a public auction, the achievement of goals established for plans and programs in force, among other matters relevant to the administrative efficiency of the office.

Paragraph 2. The President of the BRPTO will publish a detailed annual report on its activities, in which he will highlight compliance with the sector policy, defined by the Legislative and Executive Powers, and the compliance with the following plans:

I - current strategic plan, which will contain the objectives, goals and expected strategic results of the BRPTO's actions related to its management, its competences and public policies related to industrial property, as well as the indication of external factors beyond the control of the Office that could significantly affect compliance with the plan.

II - annual management plan which, in line with the guidelines established in the strategic plan, will be the annual instrument of the BRPTO's consolidated plan and will include actions, results and goals related to the primary and management processes.

Paragraph 3. The objectives of the plans referred to in paragraph 2 are:

I - to improve the monitoring of BRPTO's actions, including its management, promoting greater transparency and social control;

II - to improve BRPTO's cooperative relations with the Government, in particular in enforcing public policies related to industrial property and innovation defined by law;

III - to increase the efficiency and quality of BRPTO's services in order to improve their performance, as well as increase the satisfaction of society's interests, with a focus on results;

IV - to enable monitoring of administrative acts and assessment of the BRPTO's management.

Paragraph 4. The annual activity report referred to in paragraph 2 shall contain an executive summary

and shall be prepared in accordance with the management report that is part of the BRPTO's rendering of accounts, pursuant to Article 9 of Statute #8,443, of July 16, 1992, and made available to interested parties on the Office's website.

Paragraph 5. It is the responsibility of the President of the BRPTO to comply with the deadlines established in this article, under penalty of liability.”

Art. 2º. Statute #9,279, of May 14, 1996, in now in force with the following changes:

“Article 6.....

Paragraph 3. In the case of an invention or utility model is created jointly by two or more persons, the patent and/or the priority right may be requested by any or all of them, by naming and qualifying the others, to guarantee their respective rights.”

“Article 16. ....

Paragraph 1. Priority claims must be made at the time of filing, by one or more of its holders, and may be complemented within 60 (sixty) days by other priorities prior to the filing date in Brazil.”

“Article 26. A patent application may be divided, *ex officio* or at the request of the applicant, into two or more by applications, provided that the divisional application:

Paragraph 1. If the decision provided for in Article 37 of this Statute is for granting the patent application, the applicant will be summoned to file a divisional application, if interested, within 60 (sixty) days, counted from the official publication.

Paragraph 2. The final milestone for submitting the divisional application by the applicant, should the application be granted, will be the end of the term provided for in Paragraph 1 of this Article.

Paragraph 3. If the decision provided for in Article 37 of this Statute is for rejecting the application, it will be possible to present the divisional application until the final decision of the BRPTO, including the appeal, within 60 (sixty) days, counted from the official publication.

Paragraph 4. The request for division not in accordance with the provisions of this article will be dismissed”.

“Article 31. ....

Paragraph 1. The examination will not be initiated prior to 60 (sixty) days from publication of the application.

Paragraph 2 For the purposes of interpreting this Statute, the end of the examination will be considered as the moment when the administrative route for the applicant is exhausted, after a final decision on administrative appeal, as provided for in Article 212.”

“Article 32. In order to better clarify or define the patent application, the applicant may affect alterations up until the end of the examination, provided that said alterations are limited to the subject matter initially disclose in the application upon paying the corresponding fees.”

“Article 37. ....

Paragraph 1. The decision, if the patent application is granted, will determine the notice of the applicant to present a divisional application, if there is an interest, pursuant to Article 26 of this Statute.

Paragraph 2. If the decision is for rejection, the applicant may submit, together with the administrative appeal, a request for division of the application pursuant to Article 26 of this Statute”.

“Article 40-A. The patent holder may request an adjustment of the term of protection of the patent whenever the acts by the BRPTO, in the administrative processes of granting patents, violates the term provided for in Article 49 of Statute #9,784 of January 29, 1999, counted in double.

Paragraph 1. The term adjustment provided for in the *caput* will be limited to a maximum total of 5 (five) years, whether the compensation is granted through administrative or judicial means, under any circumstances.

Paragraph 2. The procedure for term adjustment by administrative means will be provided for in regulation.”

“Article 42. ....

Paragraph 3. The patent holder is assured with the preliminary suspension of the violation or of the act that gives rise to it, including customs clearance, by means of a specific judicial determination, even before the defendant is summoned.

Paragraph 4. Any opposition from legislation and/or court decision from a foreign jurisdiction shall not limit the exercise of rights and property conferred by the patent in Brazilian territory.”

“Article 183. Manufacturing a product that is the subject matter of a patent for invention or for utility model, without authorization of the holder.

Penalty – detention of 1 to 4 years and a fine.

Sole paragraph. The same penalties apply to anyone who uses a mean or process that is the subject matter of a patent for invention, without authorization of the holder.”

“Article 184. Exporting, selling, exhibiting or offering for sale, maintaining in stock, hiding, or receiving, with a view to use for economic purposes, a product manufactured in violation of a patent for invention or for utility model, or that is obtained through a patented process.

Penalty – detention of 1 to 4 years and a fine.

Sole paragraph. The same penalties apply to those who import a product that is the subject matter of a patent for invention or for utility model or is obtained through a process patented in the Country, for the purposes provided for in the previous item, and that has not been placed on the external market directly by the patent holder or with their consent.”

“Article 185. Supplying a component of a patented product or material or equipment for carrying out a patented process, provided that the final application of the component, material or equipment necessarily leads to the exploitation of the subject matter of the patent.

Penalty – detention of 6 months to 2 years and a fine.”

“Article 187. ....

Penalty – detention of 1 to 4 years and a fine.”

“Article 188. Exporting, selling, exhibiting, or offering for sale, maintaining in stock, hiding, or receiving, with a view to use for economic purposes, an object that illicitly incorporates an industrial design registration or a substantial imitation thereof that may lead to error or confusion.

Penalty – detention of 1 to 4 years and a fine.

Sole Paragraph - The same penalties apply to those who import a product that incorporates an industrial design registered in the Country or a substantial imitation thereof that may lead to error or confusion, for the purposes provided for in the previous item, and which was not placed on the external market directly by the holder or with their consent.”

“Article 190. ....

Penalty – detention of 1 to 4 years and a fine.”

“Article 191. ....

Penalty – detention of 3 months to 1 years or a fine.”

“Article 193. ....

Penalty – detention of 6 months to 2 years and a fine.”

“Article 194. ....

Penalty – detention of 6 months to 2 years and a fine.”

“Article 195. ....

XV – Limiting the exercise of rights conferred by this Statute by means of a foreign judicial or administrative decision.

Penalty – detention of 1 to 4 years and a fine.”

“Article 200. Criminal actions and preliminary measures of search and seizure which may be necessary in the case of crimes against industrial property will be regulated by the provisions of the Brazilian Criminal Process Code, with the modifications present in the articles of this Chapter.

Article 200-A. In crimes carried out by means of a complaint and that leave traces, the complaint will not be received if it is not supported by a technical examination report provided by the complainant themselves and prepared by at least two experts with a higher education degree and specialized in the field of the examined object.”

“Art. 201. In carrying out search and seizure in a patent-related crime, the court officer will be accompanied by two experts having a higher education degree, preferably specialized in the object of the investigation, who will, after finding sufficient evidence of the illicit, preliminarily conclude the search and communicate it to the judge, who will order the seizure of the objects related to the crime. The report must always be attached to the case file within three days for approval.

Sole Paragraph: The applicant for the search and seizure may challenge the report contrary to the seizure, and the judge will order it to be carried out, if he does not agree with the reasons given by the experts.”

“Article 216-A. The assistance by an attorney in the administrative proceedings provided for in this Statute is regulated as follows:

I - representation by an attorney is mandatory in the litigation administrative processes provided for in this Statute, i.e., the processes involving any type of third-party intervention or participation in the course of the procedure, opposition, or allegation of nullity, be it related to trademarks or patents;

II - is optional in other cases.”

“Article 225. The limitation for actions for compensating for damage caused to industrial property rights is 10 (ten) years.

Article 225-A. The limitation for actions for controlling an administrative act proposed against the BRPTO is 5 (five) years.

Article 225-B. The limitation for action for adjusting the term of protection is 5 (five) years counted from the end of the original term of protection.”

“Article 228. Fees will be charged for the services provided for in this Statute, the amount and payment processing of which will be regulated by an act of the office administrator of the Federal Government to which the BRPTO is bound, noting the provision of Statute #5,648 of December 11, 1970.

Sole paragraph. The amounts collected must be exclusively destined to the provision of public services within the jurisdiction of the BRPTO related to administrative processes for granting patents for invention and utility model; industrial design registration; and trademark registration.”

“Article 244. The following are hereby revoked: #5,772 of December 21, 1971, Statute #6,348, of July 7, 1976, articles 187 to 196 of Decree-Statute #2,848 of December 7, 1940, articles 169 to 189 of Decree-Statute #7,903 of August 27, 1945, articles 525 to 530 of Decree-Statute #3,689 of October 3, 1941, and other provisions to the contrary.”

Article 3o. This Statute takes effect on the date of its publication.

Brasilia, July \_\_\_\_ of 2022.

**ALEXIS FONTEYNE**

Federal Representative (NOVO-SP)

## EXPLANATORY STATEMENT

This Bill includes into article 6 of Statute #5,648/1970 a number of obligations so that the BRPTO adopts measures and presents periodic strategic plans, in favor of Public Governance and bettering the Office's management, complying with the provisions of Federal Decree #9,203/2017. The objective is ensuring greater efficiency for the Brazilian patent system, following the best international practices and stimulating development, research, and innovation in the country. Ultimately, one of the guidelines of public governance is promoting administrative simplification, modernization of public management, and the integration of public services, especially those provided by electronic means (Article 4, II).

These measures aim to promote the best management and governance practices in the Federal Government. This trend is in line with the efforts made since 2017 by the Brazilian Government to ensure improvement of the quality of governance and to adapt to the best international practices. The objective is to ensure (i) better decision-making process of bodies and entities whose activity affects the economy, as is the case of the BRPTO, thus supporting national economic development; and (ii) contributing to Brazil's entry into the Organization for Economic Co-operation and Development – OECD.

Este projeto de lei apresentado também apresenta alterações à Lei nº 9.279, de 14 de maio de 1996 (“LPI”).

An amendment is suggested to Article 6, Paragraph 3, so as to incorporate the possibility of the priority right being claimed by one or more of its holders, in order to optimize the legal provision currently in force. Along the same lines, an amendment to Paragraph 1 of Article 16 is suggested.

Another amendment concerns the submission of divisional applications. A change to the wording of the *caput* of Article 26 is suggested, excluding any mention of an “*end of examination*” as a time frame for submitting the divisional application. The new wording is in accordance with the legislative provision of comparative law, which allows the presentation of divisional applications in a less restrictive manner, so as to ensure protection to the legal certainty of the patent applicant (protected by Article 5, XXXVI of the Brazilian Constitution, Article 30 of the Introduction Act to the Rules of Brazilian Law – LINDB and Article 2 of Statute # 9,784/1999).

In the United States, for example, upon concluding the grant of the patent, the USPTO sends a Notice of Allowance which allows the applicant to make revisions and request amendments before the patent is definitively granted. On this occasion, the applicant may request a divisional application. Thus, the concept of “*end of examination*” is broader in comparison to the current provision of the Brazilian patent law. Likewise, the EPO issues a notice to the applicant on the fulfillment of all requirements and the office's intention to grant the filed patent, allowing the applicant to review and request amendments to the application before the patent is granted.

In addition to amending the *caput* of Article 26, the inclusion of 3 (three) paragraphs is suggested, altering the procedure for submitting the divisional application. The submission procedure is regulated both when granting and rejecting the patent application, having the decision of Article 37 of Statute # 9,279/1996 as a time frame for counting the term for filing the divisional application. Counting from the official publication of the decision, the applicant has 60 (sixty) days to present divisional applications. Two

paragraphs were added to Article 37 to reflect the aforementioned change to Article 26.

In order to standardize the understanding of the expression “end of examination”, Paragraph 2 is also included in Article 31, so that, for the purposes of interpreting the Statute, the end of examination will be considered as the moment when the administrative means for the applicant are exhausted, after a final decision on an administrative appeal, as provided for in Article 212 – which provides that administrative appeals provided for in the Statute will have an effect of review. This interpretation is in line with the provisions of the Brazilian Patent Statute itself, which provides that the final frame for acts by the applicant will be the payment provided for in Article 38, *caput* and Paragraphs for granting the letters-patent. As already mentioned, the amendment is in line with the provisions of the United States and Europe, ensuring greater legal certainty and efficiency in administrative patent processing.

With respect to Article 32, the current wording of the *caput* has been amended to allow changes to be made until the end of the examination, provided that said changes are limited to the subject matter initially disclosed in the application, upon payment of the corresponding fees. The provision guarantees a better use of the patent administrative process whilst at the same time ensures that the amendments are conditioned to payment of the respective contribution for the examination.

Regarding the term of patents, Article 40-A is included in the Statute, providing for a maximum limit of 5 (five) years for requesting patent term adjustment, either through administrative or judicial channels. In this scenario, this Bill takes into account existing parameters in Brazilian legislation and in foreign legislation for the inclusion of a limit for term adjustments granted to a patent in Brazil. The limit of 5 (five) years for the compensations claimed through administrative or judicial means is justified considering, *mutatis mutandis*, Article 54 of Statute #9,784/1999, which provides for a peremptive period of 5 (five) years for reviewing administrative acts. The intention was to define a clear and determined limit for eventual compensation.

Two paragraphs were included to Article 42, seeking to (i) assure the holder that there will be preliminary suspension of the violation or preceding act, including customs clearance, by means of a specific court order, even before the defendant is summoned; and (ii) to clarify that any opposition to legislation and/or court decisions from foreign jurisdictions will not limit the exercise of the rights and property conferred by the patent in the national territory.

With regard to criminal provisions and criminal proceedings, changes are to be made in Articles 183, 184, 185, 187, 188, 189, 191, 193, 194, 195, 200 and 201 of the Statute. Bill #236/2012, for the Reform of the Brazilian Penal Code, has been pending in the Federal Senate since July 9, 2012. With regard to the Special Part, Bill #236/2012 seeks to give a more systematic treatment to a series of penal types that are currently dealt with by separate special legislation, as is the case with crimes against industrial property, currently provided for in Articles 183 to 195 of Statute #9,279/96.

Many criticisms were presented against Bill #236/2012 by academics, study commissions and various entities. Nevertheless, it is possible to verify that these criticisms were directed more towards the lack of scientificity found in the suggestions for reform of the General Part of the Penal Code.

Regarding the Special Part, we can observe the presentation of 85 amendments to specific parts of

the Project, but none of them addressed the texts of the penal types intended to deal with crimes against industrial property, which are situated between articles 175 to 178 of Bill #236/2012.

The time elapsed in the processing of Bill #236/2012 (almost 10 years), the addition of dozens of other Projects for joint processing, the criticisms presented to the General Part of the Penal Code (CP) and the recent enforcement of the Anti-Crime Package, the latter already dealing with many of the issues addressed by the CP reform, point towards the unpredictability of a conclusion, and brief voting for Bill #236/2012.

However, with regard to crimes against industrial property, the mismatch between the penal types and the penalties imposed on them by Statute #9,279/96 and the empirical reality that is presented today is notorious.

Parallel to a significant advance in the field of electronic technology, information technology, agriculture, genetics, etc., giving rise to a strong increase in innovation and stimulus and the need to protect investments in the field of industrial property, there is an increasing incidence of counterfeiting in all industrial property sectors, including in the scope of the widespread commercialization of products containing unlicensed patents.

In this scenario, the abstract incidence of a penal ruling in law with sufficient power to deter practices that violate industrial property rights, as well as the effectiveness of criminal procedural rules capable of enabling in a more systematic, objective and uncomplicated way the exercise of private penal action to the discretion of the holders of the violated rights, are unequivocally necessary and timely.

With regard, specifically, to penal procedural rules, it should be noted that the complexity present in crimes against industrial property, especially in recent times, which has made the carrying out of technical expertise in the most diverse areas of knowledge ever more common, makes criminal prosecution of crimes against industrial property incompatible with the rite of crimes of special courts.

For all these reasons, presented here in summary form, but objectively and palpably in the face of reality, there is justification for more harmonic penal types and the imposition of more adequate penalties for the prevention of illicit conduct that affect the property right of the holder of the temporary privilege capable of recognizing innovation and remunerating the investments made in it, as well as to the economic order which is affected by the unfair competition existing due to counterfeiting and “piracy”, and even consumer relations, at the end of the chain but affected by the consequences of such violations.

However, the text of the provisions related to crimes against industrial property of Bill #236/2012 present not only a greater simplification of what such prohibited conduct entails, but also the incidence of penalties that are more compatible with the harmfulness of these conducts, considering the form and extent of their deleterious effects on the economic order as a whole.

For this reason, it is proposed that the amendments brought by Bill #236/2012 to the articles that typify crimes against industrial property in Statute #9,279/96 are adopted, including the distinction between “detention” and “incarceration”, establishing, for penalties that involve deprivation of liberty, the denomination of “prison”, which, in turn, for the most serious conducts, should now range between 1 and 4 years.

With regard to procedural rules, the limits on the sentence of imprisonment imposed already remove such procedures from the scope of the special courts, being contrary to Article 61 of Statute #9,099/95 with the wording given by Statute #11,313/2006.

On the other hand, due proceedings related to crime, which in this case can only be carried out with efficiency and guarantee of the fundamental rights of the parties when accompanied by various types of expertise to determine the presence of the corpus delicti, does not match with the provisions of Article 2 of Statute #9,099/95, which establishes for special courts the criteria of orality, simplicity, informality, procedural economy and celerity.

Finally, there must be greater coherence between the pre-procedural process and the Prevailing type of action for the exercise of the right to have the facts that violate the holder's rights punished, that is, the criminal complaint.

If almost all crimes are prosecuted only when there is a complaint, with the exception of only one penal type in force today (that of Article 191 of Statute #9,279/96), depending exclusively on the injured party, there is no reason why they should rely on whether or not the judge or the police chief grants the prior examination to instruct their simple initiative to complain.

Note that not even the changes promoted in articles 530-A to 530-I of the Penal Procedure Code (CPP), regarding the penal procedure, introduced by Statute #10,695, of July 1, 2003, are directed to crimes against industrial property, only to crimes against copyright, as expressed in the Amendment to that Statute.

With respect to representation by a lawyer, the bill includes Article 216-A, so as to provide for the requirement of a lawyer in BRPTO's contentious administrative proceedings. A contentious administrative proceeding is understood to be one that involves any type of intervention or participation by third parties in the course of the procedure, opposition or nullity claim, whether of trademarks or patents. As an example, it is the case of opposition to administrative proceeding of trademarks, provided for in Articles 158 to 159 of Statute #9,279/96, and the administrative proceeding of post-grant opposition, provided for in Articles 50 to 55 of the same Statute.

The assistance of a lawyer in these proceedings is necessary since, in the contentious administrative proceeding, there is a potential act with a serious effect on the rights of the applicant or holder. The presence of a lawyer is essential, since it is a professional with due knowledge of the proceedings and the complexities inherent to the subject matter, so as to accompany and assist the citizen during the proceeding.

Statute #9,784/1999, which regulates administrative proceedings within the scope of the Federal Government, provides in item IV of its article 3 that the administered person has the right before the Administration to be assisted, optionally, by a lawyer, unless when representation is mandatory by law. The inclusion proposed in Statute #9,279/1996 is in line with Statute #9,784/1999 regarding the possibility of creating, by law, mandatory presence of a lawyer in administrative proceedings.

Said requirement collaborates to ensure to the parties in administrative proceedings the due process of law, according to Article 5, LV, of the Federal Constitution and article 2 of Statute #9,784/1999. As contentious administrative proceedings can result in a serious violation of a certain right, there must be

even greater rigor in the observance and respect of the aforementioned constitutional guarantees.

The Federal Association of the Brazilian Bar Association - CFOAB has already stated its position in the sense that technical defense is a mandatory component of the right to a fair hearing with the inherent means and resources, in accordance with Article 5, LV of the Federal Constitution. Only the lawyer, a professional who effectively knows the proceedings in their full complexity, can perform the defense in accordance with fundamental rights.

Furthermore, in Brazil, there is currently no Industrial Property Agent, which would be a professional licensed by the patent agency with the task of assisting inventors seeking to file applications in various ways, which include from sending the necessary technical documentation to reviewing similar applications rejected. Historically, there has already been a provision for the Industrial Property Agent in the Brazilian legal system. The exercise of this function was regulated by the following rules: (i) Decree-Statute #8,933/1946; (ii) Ministerial Ordinance #32, of March 19, 1998, by the Ministry of Industry, Commerce and Tourism; (iii) BRPTO Rules 194/2008, 195/2008 and 196/2008; (iv) BRPTO Rule 04/2013, and (v) BRPTO Rule 129/2014, regarding Services Relating to the Registration of Industrial Property Agents, Codes 901, 902, 903, 906 and 909.

Such rules were questioned in Public Interest Civil Action ("ACP") #0020172-59.2009.4.03.6100, appreciated in the 1<sup>st</sup> instance by the 10<sup>th</sup> Civil Court of the Federal Bench of São Paulo. The bench decided for the merits of the ACP, incidentally declaring the unconstitutionality of the aforementioned rules and reject their application. See below an excerpt from the decision in which the extrapolation of the BRPTO's competence in regulating the practice of the Industrial Property Agent is criticized, especially with regard to failures in regulating the conflict of interest aspect (emphasis in the original):

*"It should be noted that Lawyers are not authorized to sponsor conflicting interests between two clients. This practice was prohibited by the rules of articles 17 and 18 of the Code of Ethics and Discipline of the Brazilian Bar Association, in verbis:*

*"Article 17. Lawyers who are members of the same professional society, or permanently joined together for mutual cooperation, cannot represent in court clients with opposite interests.*

*In the event of conflicts of interest between its constituents and the interested parties not being in agreement, with due prudence and discernment, the lawyer will choose one of the parties, renouncing the others, safeguarding professional secrecy." (emphasis added)*

In this way, art. 9 of the Code of Ethics proposed by the BRPTO reaches the absurdity of allowing industrial property agents to act for the interests of two competing clients, and, as they are in possession of information essential to the priority of the patent registration, they can, in theory, choose which client they prefer to privilege, to the point of having the power to elect, ahead of the BRPTO, who has the right to invention protection and, therefore, to the patent, by means of filing the invention that he sees fit.

This goes against the BRPTO's attempt to defend the career of the industrial property agent by presenting documents that demonstrate the occurrence of alleged irregularities, resulting from the practice of unqualified professionals. On the contrary, one of the biggest frauds to the confidentiality of information, inherent to the scope of industrial property, can be practiced by professionals registered with the endorsement of the BRPTO's Code of Ethics, which only prohibits acting in the defense of two inventors - simultaneously - in the same proceeding, which in itself can be considered inconvenient".

Thus, considering that in Brazil the role of the Industrial Property Agent is currently not supported, it is necessary to consider the importance and relevance of guaranteeing representation by a lawyer in contentious administrative proceedings before the BRPTO, under the terms proposed for Article 216-A.

The presence of the lawyer in contentious administrative proceedings within the scope of the BRPTO may also help to speed up processing and reduce the *backlog* of patents, one of the main goals established by the BRPTO in its latest Action Plan, published in 2021, as it favors procedural celerity, reducing unnecessary steps caused by lack of technicality and, consequently, the *backlog*.

With regard to the statutory period of limitations, it is proposed to extend the period of limitations for actions aiming to repair damage caused to industrial property rights, when there are two private parties involved, with a period of 10 (ten) years being provided for in art. 225, *caput*. In addition, Articles 225-A and 225-B, are also recommended, considering a period of 5 (five) years for: (i) an action proposed against the BRPTO to control an administrative act, except for other specific limitations provided for by law; and for (ii) an action to adjust the limitation, counted from the expiry of the original limitation.

The amendment proposed in this Bill to Article 228, *caput* and sole paragraph, take into account the BRPTO's receipts history and the need to optimize the autarchy's resources.

In the years 2020 and 2019, there were financial surpluses in the agency, due to the revenues from the annuities and amounts charged. In 2020, BRPTO's receipt was R\$ 470,957 million. In 2019, its receipt was R\$ 478,315 million. It should also be noted that the gross value from the exploitation of goods, rights and the provision of services by the BRPTO (patrimonial value of the final services provided by the agency - trademarks, patents and others) in 2020 was R\$ 380,715 million and in 2019 R\$ 394,034 million.

Despite the BRPTO's surplus, the agency's budget for the current year were cut. Of the BRL 70 million established in the preparation of the 2022 Annual Budget Law, and which are part of the BRPTO's Action Plan for 2022, BRL 36 million was cut. Due to this severe restriction, the BRPTO is prevented from complying with the performance goals of the National Intellectual Property Strategy - ENPI, severely impacting the industrial property protection system and innovation in the country.

Considering the above, it is necessary to amend Article 228 of the Statute to improve the BRPTO's management, giving greater credibility to the intellectual property policy. This measure will preserve the resources arising from the provision of services for internal use and will prevent the contingency of the revenue from compensations.

We believe these reasons are justification enough for us to suggest our Noble Peers to consider the changes in Statute #5,648/1970 and in Statute #9,279/1996!

House of Representatives, July \_\_\_ of 2022.

**ALEXIS FONTEYNE**

Federal Representative (NOVO-SP)