

INTELLECTUAL PROPERTY: AN AGENDA FOR INDUSTRIAL DEVELOPMENT

- *Intellectual property (IP) rights - such as patents, industrial designs and trademarks - have a significant impact on innovation. These rights provide direct incentives for inventions, apart from facilitating the dissemination of knowledge and technology transfer and from improving competitiveness and access to international markets.*
- *The IP system has become even more relevant due the emergence of the enabling technologies of Industry 4.0.*
- *In Brazil, it takes 10 years on average for the National Institute for Industrial Property (INPI) to examine a patent application. This period is much longer than those IP offices around the world take to do the same (2.9 years in South Korea and 2.8 years in China, for example).*
- *With the aim of improving the INPI, extraordinary measures should be taken to reduce the backlog of more than 225,000 pending patent applications combined with structuring measures to make it possible for its technical staff and internal procedures to meet this challenge. In addition, international cooperation must be strengthened to fight the illegal market.*



Intellectual Property (IP) plays a key role in stimulating innovation and economic development.

When granted and used in a fair and balanced manner by producers and users of technological knowledge, IP rights contribute to a faster dissemination of knowledge, facilitate technology transfer and innovation and foster development.

The efficiency of the Brazilian IP system is directly dependent on the proper functioning of the National Institute for Industrial Property (INPI), the agency in charge of examining patent applications and granting industrial property rights in Brazil. When granted these rights, companies have greater legal certainty to correctly assess the value of their creations and innovations and trade them in the domestic and global market.

The poor structure of the INPI has a negative impact on Brazilian industry and on international companies that could be investing much more in innovation in Brazil. Despite having a surplus of applicant fees, the INPI is small and not very well equipped as compared to other similar offices in other countries. This contributes to the sluggishness of the agency.

It takes 10 years on average for the INPI to examine a patent application. In some technological sectors, the average time exceeds 13 years, as in the case of telecommunications and pharmaceutical products and process.

In addition to such delay, the backlog of pending patent applications exceeds 225,000. If nothing changes, it is estimated that there will be 350,000 patent applications pending examination in 2029.

INDICATORS OF THE PERFORMANCE OF PI OFFICES IN EXAMINING PATENT APPLICATIONS - 2018

Office	Backlog	Examiners	Backlog/ Examiner	Applications/ Year	Final office action
USA	549,741	8,160	67.3	605,571	3.5
Japan	175,290	1,702	103	318,381	5.3
Europe	409,049	4,451	91	159,353	5.3
China	n/a*	10,302	n/a*	1,333,503	2.8
South Korea	154,378	836	184.6	208,830	2.9
Brazil	225,115	458	491.5	28,667	10.2

Source: Prepared by CNI based on data from IP5 OFFICES. IP5 Statistics Report, 2016.
(*) n/a: not available.



The shortcomings of the system are well known and for many years discussions have been held on how to solve this problem without practical results.

A strategy for structuring the INPI appropriately must be devised and it should include increasing its technical staff and improving its internal procedures. This is the path for Brazil to rely on a safe and adequate environment in the area of intellectual property.

To address this backlog problem, the huge challenge involved requires extreme measures, such as approving a summary examination project proposed by INPI in a public consultation held in 2017.

There is also an agenda on the relationship between intellectual property and illegal trade. Smuggling and piracy should be addressed by all legal means, including by expanding international cooperation, especially with countries in which illegal goods are produced or which are used as transit routes for them.

Main recommendations

1 The autonomy and operational improvement of the National Institute for Industrial Property (INPI) should be ensured.

2 The average time for examining patent applications should be reduced.

3 The average time for examining trademark applications should be reduced and Brazil should join the Madrid Protocol.

4 Crimes against intellectual property should be fought.

5 Brazil's integration into the world intellectual property system should be expanded.



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