

Starting **November 27, 2024**, the Brazilian Patent and Trademark Office (BPTO) will once again allow slogans to be registered as trademarks, marking a significant change for companies seeking more comprehensive protection for their advertising expressions.

Historical Background

Until 1996, slogans could be registered as trademarks in Brazil, allowing direct protection against unauthorized third parties' use. However, with the enactment of the current Industrial Property Law (Law No. 9,279/96) suspended this protection, limiting defense of these expressions to copyright claims or actions against unfair competition.

Since then, the restriction on slogan registration has become **the third most common reason for rejecting trademark applications** in the country, creating challenges for companies aiming to protect their advertising messages.

What Will Change in November

With the BPTO's updated interpretation, the restrictions on slogan registration will become more specific. Applications will only be denied if the slogan is exclusively promotional **and** lacks a distinctive function.

To determine if a slogan serves an advertising function, the BPTO will consider whether it:

- Recommends the product or service it marks;
- Highlights qualities of the product or service;
- Conveys the company's mission, values, or concepts;
- Aims to persuade the public to take action;
- Emphasizes the product or service compared to competitors.

Additionally, a slogan will be considered non-distinctive, and thus ineligible for trademark registration, if it:

- Is a commonly used advertising expression in its sector;
- Lacks originality, being purely descriptive, promotional, or complimentary.

Expanded Protection Opportunity

This change will simplify the process for registering slogans and provide stronger protection for exclusive advertising expressions, provided they are original and distinctive. Companies

looking to solidify their brand messaging will have a more effective way to prevent competitor misuse and reduce market confusion.

If your company uses slogans or impactful phrases in its communication, this is an excellent opportunity to consider registering them as trademarks. Our team is available to guide you through this process to ensure robust protection.