

优化巴西专利申请程序的战略性变革

了解 BRPTO (Brazilian Patent and Trademark Office) 重塑巴西专利格局的措施，旨在提高专利程序效率并为年费的支付提供更灵活的条件。

在巴西，自 2024 年 1 月 1 日起生效的最新 BRPTO 法令改变了现有的规则。从年费程序的更新到专利审查的变革来了解这些决定性的更新，均是有必要的。

随着 BRPTO 对程序的变革，该机构在年底发布了促进审查分析、年费和行政资源的相关政策。

BRPTO 的专利、计算机程序和集成电路拓扑部门发布了新条例/INPI/PR/Nº 52/2023，该条例于 2024 年 1 月 1 日生效，用于管理年度付款的程序、申请归档和专利失效，以及 9,279/96 号法第 84 至 87 条提及的专利申请和专利的恢复。

根据新规定，年费可以在原缴费期开始前 3 个月内提前缴纳。但须考虑到之前的年费应是正常缴纳的，否则该费用将被用于支付此前还未缴纳的年费（如果适用）。

该条例旨在完善与专利年费相关的监管框架，其原则是通过更优化地执行用户的某些行为来提高程序的效率，并为年费缴纳创造更灵活的条件。

随着 BRPTO 进行战略变革，该机构通知，专利申请技

术审查的分配以及随后的审查现在将在审查请求日期先后作为依据进行排队，与当前以申请日为依据有所不同。如法令/INPI/N° 56/2023 中公布，该制度定于 2024 年 1 月 1 日起实施。

最后，就最近公布的关于上诉期间对于文件修改的限制和范围的法律指南的规范性效力而言，除之前的通知外，BRPTO 于 2023 年 12 月 26 日发布了关于最初确定的最后期限的修正。

目前，BRPTO 确定其从 2024 年 4 月 2 日起完全适用。在生效时间前，申请人将能够对所提交的上诉提交补充内容，以在适用的情况下对上诉进行修改。

截止日期后，在 2024 年 4 月 1 日之前提交和不符合预期规则的上诉可能会受到部门行动的影响，而在法律通常规定的期限内发出审查意见。

需澄清的一点，这一新规则所造成的影响不适用于追溯，因此不适用于 PTO 已明确决定的申请中。

Strategic changes aim to optimize the national procedure of patent applications in Brazil

Discover the moves made by the BRPTO that are reshaping the patent landscape in Brazil with the aim of increasing the efficiency of patent proceedings and offering more flexible conditions for the payment of annual fees.

10 JANUARY 2024

In Brazil, the latest BRPTO ordinance, which has been in effect since January 1, 2024, changes the rules of the game. It is therefore essential to be aware of these decisive updates ranging from the renewal of annual fee procedures to the reordering of patent examination. Let's explore them:

Amidst the procedural changes made by the BRPTO, the body ended the year with interesting publications promoting advances related to the analysis of exams, annual fees and administrative resources.

The Directorate of Patents, Computer Programs and Topographies of Intergraded Circuits of the BRPTO published the new Ordinance/INPI/PR/Nº 52/2023, which comes into force on January 1, 2024, which governs the procedures related to payment control of annual payments, archiving of

applications and extinction of patents, as well as the restoration of patent applications and patents referred to in articles 84 to 87 of law no. 9,279/96.

According to the new rules, advance payment of the annual fee will be accepted if made in the previous 3 months before the original opening of the payment period. This possibility must be taken into account that the previous annuities are regular, since the act will be used for the outstanding annuity, if applicable.

The ordinance in question aims to improve the regulatory framework relating to annual fees for applications and patents, with the principle of making procedures more efficient, through the more optimized execution of certain acts by users and making conditions more flexible for taking advantage of the annual fee payment.

Still in the wake of the strategic changes carried out by the BRPTO, the same board informs that the distribution of patent applications for technical examination, and the consequent carrying out of the examination, will now be ordered by the date of the examination request, in a change to the current ordering, determined by the date of filing the application. The start date for this order was also scheduled for 01/01/2024, as published in Ordinance/INPI/Nº 56/2023.

Finally, considering the recent publication regarding the normative effect to the legal guidance with respect to the limits and scope of the full devolutive effect and in addition to the previous communication, the BRPTO published, on December 26, 2023, a rectification regarding the initially established deadline.

As for now, the BRPTO determined its full applicability from April 2, 2024. Within that same period, applicants will be able to submit an addition to the appeals filed, aiming for adjustments where applicable.

After the deadline has elapsed, appeals that have been filed by 04/01/2024 and do not comply with the expected understanding may be subject to office actions to be contested within the deadlines usually granted by law.

It is also clarified that the effects resulting from this new understanding will not be applied retroactively, therefore, not applicable to applications that have already been definitively decided at the PTO.

来源:

<https://www.hyaip.com/en/news/strategic-changes-aim-to-optimize-the-national-procedure-of-patent-applications-in-brazil/>

HERRERO & ASOCIADOS (H&A)

vivienqin@herrero.es

H&A 为总部位于欧洲西班牙的知识产权代理机构，成立于 1982 年，全球员工人数超过 195 人，超过 30 位专职律师，在欧洲和拉丁美洲的 11 个城市均设有办公室。

H&A 服务具体涉及以下国家或区域：

欧洲、西班牙、葡萄牙。

阿根廷、墨西哥、哥伦比亚、巴西、玻利维亚、智利、哥斯达黎加、多米尼加、厄瓜多尔、萨尔瓦多、危地马拉、洪都拉斯、尼加拉瓜、巴拿马、巴拉圭、秘鲁、乌拉圭、委内瑞拉。