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INCREASE IN THE OFFICIAL FEES CHARGED BY THE BRAZILIAN PATENT & TRADEMARK OFFICE – BPTO SHALL ENTER INTO FORCE ON JUNE 1st, 2009

The Federal Minister for Industry & Commerce has recently authorized through Ordinance 101, of May 12, 2009 (published in the Official Journal of May 14, 2009) an increase in the official fees charged by the BPTO.

Such increase has been justified by the Government officials as necessary in order to equip the BPTO with the resources to perform PCT searches and translations, as on September 2007 Brazil has been admitted by the PCT Assembly as an International Search Authority – ISA, and an International Preliminary Examination Authority – IPEA.

Nevertheless, all fees have been increased, i.e. not only the fees pertaining to patent prosecution, but also to the registration of trademarks, designs and software. The BPTO shall henceforth also accept the registration of computer semiconductor topographies, as foreseen in the Brazilian Semiconductor Topography Protection Act, and official fees for such services have also been now approved.

This is the first change in the official fees since 2003. The new fees shall enter into force on **June 1st, 2009**. However, not only the fees have been increased, but also, in many cases, the system for charging such fees has been modified.

Please note herein below a few examples and important remarks about the new fees:

Trademarks

Trademark filings in paper shall increase from US\$ 130.00 / R\$ 260,00 (one word mark, in one class) **to US\$ 200.00** / R\$ 400,00.

Electronic trademark filings shall now have two different, lower, fees: **US\$ 150.00** / R\$ 300,00 for electronic filings using the official list of products and services available at the BPTO computer system, and **US\$ 175.00** / R\$ 350,00, for electronic filings claiming a specification of products and services not included in the official BPTO list (the latter possibility has still not been implemented in practice, though). Multiple-class applications shall continue not to be available, for the time being.

The finalization of the trademark registration procedure (the “final taxes”) shall increase from US\$ 262.50 / R\$ 525,00 **to US\$ 315.00** / R\$ 630,00.

Patents

As for patent prosecution fees, the filing fees will continue to be modical (the increase is from US\$ 70.00 / R\$ 140,00 **to US\$ 100.00** / R\$ 200,00), but the increase to be implemented on June 1st, 2009 will have a significant effect on the examination fees, which will be calculated as follows:

- US\$ 250.00 / R\$ 500.00 for cases with up to 10 claims, plus
- US\$ 25.00 / R\$ 50.00 for each claim from 11 to 20 claims, plus
- US\$ 37.50 / R\$ 75.00 for each claim from 21 to 30 claims, plus
- US\$ 50.00 / R\$ 100.00 for each claim exceeding the first 30 claims

Please note below examples of the increase in the official fees for applications with a certain number of claims (in US\$):

<u>Number of Claims</u>	<u>Old Fees</u>	<u>New Fees</u>
10	200	250
20	295	500
30	390	875
50	580	1,875
100	1,055	4,375
200	2,005	9,375

As you may notice, the new fees shall have an important impact on the cost of prosecution of an application with more than 30 claims.

Final Comments

All calculations herein have been made under the exchange rate of US\$ 1.00 = R\$ 2,00. The actual amount of the official fees in U.S. dollars will vary on a daily basis, in accordance with the exchange rate.

Please also note that, despite this increase in the official fees, due to the current worldwide economic crisis we shall not increase our professional fees.

Do not hesitate to contact us should you need any clarification concerning the new fees to be charged by the BPTO or any other matter concerning intellectual property protection in Brazil.

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