

## Submission of Assignment of Priority Right Concerning the Filing of Patent Applications and Design Registrations in Brazil, Whenever the Applicant is Different From the Applicant of the Priority Application

Dear Sirs,

Please refer to paragraphs 6 and 7 of article 16 of the Brazilian Industrial Property Law, Law No. 9279/96 which read as follows:

**Article 16** - Priority rights will be guaranteed to a patent application filed in a country that maintains an agreement with Brazil or in an international organization, that produces the effect of a national filing, within the time limits established in the agreement, the filing not being invalidated nor prejudiced by facts that occur within such time limits.

§ 6 - When the priority is obtained by virtue of assignment, the corresponding document must be filed within 180 (one hundred and eighty) days from filing or, in the case of entry into national processing, within 60 (sixty) days from the date of such entry, consular legalization in the country of origin not being required.

§ 7 - Failure to file proof within the time limits established in this article will result in loss of the priority.

Furthermore, may we ask you to refer to item 27 of Normative Act No. 128/1997 of the Brazilian Patent Office dealing with the above mentioned subject matter.

**27.** If the applicant that files the international application is different from the one that filed the prior application which priority is claimed and no evidence has been submitted as to the right thereto, there should be submitted a copy of the corresponding assignment document or a statement of assignment or equivalent document, the notarization/legalization thereof being dispensed, together with a free translation or a bilingual document.

**27.1** The procedures to be observed concerning the assignment document shall be those established in the law of the country where it has been executed.

**27.2** The right to the filing and to the priority is presumed to have been assigned in the cases of patent applications which filing applicant is an employer or a party having contracted the inventor, provided there is submitted the document evidencing that relationship and the assignment of future inventions, or an equivalent document.

However, regarding the filing of Brazilian phases of international applications filed under the PCT, we suggest preparing Declarations as per rule 4.17 (ii) and (iii) of the PCT, which deal with the problem of submitting assignment forms when the International application is presented to the Receiving Office. These Declarations are extremely useful when dealing with international applications claiming priority of U.S. applications where the applicants are the inventors, while the applicants of the corresponding PCT applications are usually a company.

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