

## An overview of the INPI's measures to reduce the patent backlog

The backlog of pending patent applications is a huge concern for the Brazilian National Industrial Property Office (INPI) and is having a severe knock-on effect on applicants. By the end of 2015, 242,223 patent applications were still pending a decision in the first instance.

To reduce the backlog, INPI has adopted several measures to expedite the application examination process and narrow the timeframe in which issue decisions are issued after the first substantive examination.

INPI has Patent Prosecution Highway (PPH) agreements with seven other offices – the USPTO, EPO, Japan Patent Office (JPO), China National IP Administration (CNIPA), Danish Patent and Trademark Office (DKPTO), United Kingdom Intellectual Property Office (UKIPO) and Patent Offices of other PROSUL members (ie, Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Paraguay, Peru and Uruguay).

However, PPH agreements are limited to specific fields of inventions, as listed in Table 1.

<i>PPH Agreement</i>	<i>Technical fields</i>	<i>Validity term</i>
<i>USPTO (Phase II)</i>	Information technology, oil, gas and petrochemical	until 30 April 2020
<i>JPO (Phase I)</i>	Information technology, energy, machinery, audiovisual technology, telecommunications, digital communication and computer technology semiconductors	until 31 March 2019
<i>JPO (Phase II)</i>	Information technology, energy, machinery, audiovisual technology, telecommunications, digital communication, computer technology semiconductors, materials and metallurgy, agrochemicals, polymers, microorganisms and enzymes	from 1 April 2019 to 31 March 2021
<i>EPO</i>	Chemical and medical technology	until 30 November 2019
<i>SIPO</i>	Chemical, measurement, packaging and Information technology	until 31 January 2020
<i>UKIPO</i>	Biotech and information technology	until 31 July 2020

<i>DKPTO</i>	Engineering, lighting, heating, weapons and explosives	until 31 August 2020
<i>PROSUL (Phase II)</i>	Any technical field	until 30 June 2019

In addition to the invention requirements, the application must be within a specific International Patent Classification class. Further, drug-related inventions are non-eligible.

Under the PPH pilot programme, applicants who receive positive rulings on patent claims from one of the participating offices can request the accelerated prosecution of corresponding claims in another participating office. This allows the applicant to obtain a patentability decision in the second office more quickly. Further, the PPH programme increases the efficiency of patent prosecution by allowing the examiner in the Office of Later Examination to reuse the search and examination results from the Office of Earlier Examination, thereby reducing workload and duplication of efforts.

In addition, INPI has other fast-track programmes, which include:

- the green patent fast-track programme, for alternative energy, transportation, energy conservation, waste management and agriculture-related inventions – this is a permanent programme;
- the BR priority fast-track programme, for applications that were first filed at INPI or have RO/BR (for applications filed via the Patent Cooperation Treaty);
- the information and communications technologies patent fast-track programme, for applications filed by Brazilian science and technology institutions;
- the micro and small enterprises fast-track programme, for applications filed by Brazilian micro and small entities; and
- the pharmaceutical products, processes, equipment and health use materials considered strategic within the Health Care System (SUS) fast-track programme, for diagnosis, prophylaxis and treatment of AIDS, cancer, rare and neglected diseases-related inventions.
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Patent applications are prioritised under the following special conditions:

- if they are filed by third parties who prove that they are owners of a patent or a patent application relating to or possessing the technology of the patent application;
- if the applicant is over 60 years old;
- when its subject matter is reproduced by unauthorised third parties; and
- when the grant of the patent is a condition for obtaining financial resources from official credit institution.

These measures have already had a positive impact on INPI's management of the backlog. Between 2017 and 2018 it decreased from 225,115 to 208,341, demonstrating a 7.4%

fall over the previous year. In turn, grants rose from 6,250 to 11,090, representing an increase of 77.4%.

Although the results are significant, it is important to keep in mind that most of the measures are temporary until the backlog is in a manageable state.