

Use of Brazilian IP system by start-ups: filing numbers and main areas of interest

The National Institute of Industrial Property (INPI) has released a report entitled “Use of Industrial Property System by Start-ups”, which combines data provided by the Brazilian Association of Start-ups with information registered in the INPI and Federal Revenue databases to analyse the use of industrial and intellectual property by start-ups in Brazil. The report found a relatively low number of IP mechanisms in use but determined that the most popular field among start-ups is IT services.

Start-ups can be understood as a business in which the widespread use of technology is associated with a compact and efficient structure, as well as an innovative business model. To be classified as a start-up, the firm must be flexible when dealing with unexpected demands in the market and capable of easily reproducing an innovative product or service, which it provides to consumers at a relatively low cost.

The growth of this type of business has been clearly noted in many countries. For instance, in 2016 there were around 6,000 start-ups at initial stage in Israel, which is considered to be the second most popular country for such firms. China has also been gaining a significant market share. In the same year, Chinese start-ups working with AI received 11% of global equity funding. One year later, this investment had increased to 48%.

In this context, there has been a substantial improvement in the field in Brazil, which has been investing in structures and mechanisms to support the creation and development of start-ups (eg, technological parks, incubators and funding programmes) – despite various bureaucratic, fiscal and economic obstacles – since 2010. In 2013 the Organisation for Economic Co-operation and Development (OECD) stated that Brazil was responsible for half of regional venture capital and owned an adequate structure for supporting these firms. Moreover, investments in Brazilian start-ups increased from R\$926 million in 2016 to R\$2.86 billion in 2017. In 2018 venture capital investments reached approximately R\$5.1 billion.

Further, the Brazilian government has made significant efforts to develop this sector. In 2012 the Ministry of Science, Technology and Innovation and Communications and various business accelerators established the initiative Start-Up Brasil – Programa Nacional de Aceleração de Startups to support national and foreign firms established before 2015 and developers of products and services related to software, hardware or IT services. Another programme, Programa FINEP Startup, aims to support new firms whose product, process or service is at the testing stage (at least), by means of transferring financial resources.

Aware of these events, as well as the increasing relevance of start-ups in the global sphere, the National Institute of Industrial Property (INPI) released a report entitled “Use of Industrial Property System by Start-ups” on 19 July 2019. The report combines data registered before May 2019 and provided by the Brazilian Association of Start-ups (ABStartups) regarding 2,478 affiliated start-ups with information registered in the INPI and Federal Revenue databases. The report aims to analyse the use of industrial and intellectual property by start-ups by means of a survey relating to patent application filings, as well as trademarks, industrial designs, computer programs, topographies of integrated circuits and technology transfer registrations. It also evaluates the distribution of start-ups in many economic fields, in order to identify the main areas of interest for Brazilian start-ups.

Based on this analysis, INPI found that the fields that most attract start-ups are related to IT services (678 start-ups), followed by activities involving the provision of information services (390 start-ups), Education-related (160 start-ups) and retail-related fields (149 start-ups).

However, only 42% of start-ups used IP mechanisms. In this sense, trademark protection was sought by 973 start-ups, of which 895 used this mechanism exclusively. Combinations of different protections were applied less often. For instance, only 46 companies owned both trademark and computer program registrations, and 25 owned trademarks and patents. Hence, the use of more than two mechanisms is even more unusual: only five start-ups owned trademarks, patents and industrial designs, while only two owned patent, trademark and computer program registrations.

INPI also disclosed the number of application filings and registrations made by start-ups in Brazil. The number of trademarks (2,810 registrations) surpasses any other sort of protection in the report. Computer program registrations come second (98 registrations), followed by patents (68 applications) and industrial designs (only 16 registrations). No topographies of integrated circuits or technology transfer registrations made by start-ups are identified in the report.

INPI also assessed the patent applications according to the International Patent Classification (IPC), finding that the most used classifications were connected to information technology. Table 1 lists the main IPC classifications identified in the report.

Table 1. Distribution of start-up patent applications per main IPC classification

IPC classification	Description	Number of applications filed by start-ups
G06Q	Data processing systems or methods, specially adapted for administrative, commercial, financial, managerial, supervisory or forecasting purposes; systems or methods specially adapted for administrative, commercial, financial, managerial, supervisory or forecasting purposes, not otherwise provided for	12
G06K	Recognition of data; presentation of data; record carriers; handling record carriers	8
G06F	Electric digital data processing	6
G06T	Image data processing or generation, in general	5
H04W	Wireless communication networks	4
G01N	Investigating or analysing materials by determining their chemical or physical properties	3
G01S	Radio direction-finding; radio navigation; determining distance or velocity by use of radio waves; locating or presence-detecting by use of the reflection or reradiation of	3

	radio waves; analogous arrangements using other waves	
G08C	Transmission systems for measured values, control or similar signals	3
H04B	Transmission	3
H04M	Telephonic communication	3

The INPI report provides an overview of start-ups located in Brazil and the relationship between this sector and the Brazilian IP system, specifically with regard to:

- the use of IP mechanisms by such firms;
- the number of application filings and registrations; and
- the technical fields most often focused on by start-ups – as reflected by the main IPC classifications.

Based on the collected data, INPI highlights the potential for Brazil to support initiatives related to start-ups and investments in the field. Despite the relatively low number of IP mechanisms in use, it should be noted that development of this sector in Brazil is still in the early stages. Therefore, the favourable conditions in Brazil, as highlighted by the OECD, are expected to enable the development of start-ups and lead to an increase in the number of filings and registrations.

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