

Technology patents present a new challenge for INPI

Over the past few years, Brazil has dropped significantly in various international multiple innovation rankings, now occupying the lowest positions in these boards. There is debate over the reason for the lack of development in the tech sector, especially with regard to patents based on AI and machine-learning technologies. While there is still uncertainty surrounding the grounds for this fall, the political situation and the National Institute of Industrial Property's (INPI) huge patent backlog are widely believed to be the explanation.

WIPO's 2018 Indicators Report analyses international activity from different areas of intellectual property – namely trademarks, industrial designs and patents. While it supports Brazil's decline in tech rankings, it disagrees with the finding that this lack of development is due to the backlog.

According to WIPO's analysis, Brazil presented an annual decrease of 3.1% in patent applications, making 2018 the fifth consecutive year of decline in this area. It also observed a decrease in applications from Brazilian residents, causing India to surpass Brazil in this ranking. With regard to technology patents, foreigners represent the majority of applicants in Brazil. Their applications are usually the result of patents obtained in offices from other countries, which are then extended and revalidated by INPI. This information is of great concern to local technological development – it indicates that not only is INPI receiving a low number of technology-based patent applications (or indeed any kind of patent application), but from those received, the majority are not from Brazilian applicants or inventors.

However, in comparison with China, Hong Kong and Mexico, INPI granted more patents in 2018 (nearly 10,000), which represents one of the fastest growths among the top 20 offices during the analysed period, apart from the Indonesian IP office. There is a huge volume of pending applications – up to 196,354 – and INPI is focused on developing strategies to solve this: its efforts appear to be producing positive results so far.

WIPO's report presents a divided – albeit slightly hopeful – picture of Brazil's current patent system. It is possible that the lack of technological development and technology-based patent applications might not be directly linked to INPI's delay issues. However, justifying this situation with the current political crisis might also be unhelpful, as investing in technology is not the sole prerogative of public institutions.

Regardless of the reason for Brazil's drop in international innovation rankings, it should be seen as an amber light for allocating financial incentives in the country. Machine learning, AI and cloud computing, among other technologies, should not be discarded or put aside when discussing patent inventions, since they already represent a strong and fast-growing market abroad, which is being explored by numerous companies and public institutions. Brazil must not underestimate how indispensable this technology is and, especially, how important it is to establish ownership of these kinds of inventions.