

## **BRAZIL: New Regulation for Position Marks**

**Fonte: INTA Bulletin**

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The Brazilian National Institute of Industrial Property (INPI) has published a regulation on the registrability of position marks, a type of nontraditional trademark that serves to protect a mark placed or affixed at a specific position in a product.

According to the regulation, a distinctive sign capable of identifying goods or services and distinguishable from identical or similar signs is eligible for registration as a position mark, provided that (a) it is formed by the affixation of the sign at a singular and specific position of a certain product; and (b) the application of the mark in the chosen position does not have a technical or functional application.

The regulation also provides that pending trademark applications filed before October 1, 2021, may be converted to position mark applications if the applicants request such conversion before January 1, 2022.

Although this regulation was published on September 21, 2021 and came into effect on October 1, 2021, examination of the merits of position mark applications are on hold until INPI makes necessary updates to its information technology systems. Unfortunately, at this stage, there is no estimate on when this will occur.

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*Although every effort has been made to verify the accuracy of this article, readers are urged to check independently on matters of specific concern or interest. Law & Practice updates are published without comment from INTA except where it has taken an official position.*

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