



SENADO FEDERAL

Senador Jaques Wagner

AMENDMENT No. – CRE (SUBSTITUTE)**BILL No. 2,210, OF 2020**

Amends Law No. 9,279, of May 14, 1996, to allow the deferral of patent applications, eliminate a requirement contrary to a provision of an international agreement, and modify patent filing and examination procedures.

The BRAZILIAN CONGRESS resolves as follows:

Article 1. Law No. 9,279, of May 14, 1996, is hereby enacted with the following wording:

“Article 32. To better clarify or define a patent application, the applicant may submit amendments up until the beginning of the technical examination, provided that they are limited to the subject matter initially disclosed in the application.” (New wording).

“Article 33. The technical examination of patent applications may be deferred for up to 36 months from the date of filing, at the applicant's request. Sole paragraph. A request for deferral may be made until the date of commencement of the technical examination.” (New wording)



“Article 34. Whenever an examination is requested, the following should be submitted within 60 (sixty) days, otherwise, the application will be deemed abandoned:.....”

(New wording)

“Article 38. A patent will be granted after the application has been allowed, and the respective Letters Patent will be issued.....” (New wording)

“Article 155. The application must refer to a single trademark and, in accordance with the conditions established by the BRPTO, the request must include:

- I– applicant data;
- II– visual appearance of the requested trademark; and
- III– specification of products or services.

Paragraph 1. The request and any accompanying documents must be submitted in the Portuguese language and, whenever there is a document in a foreign language, a free translation must be submitted at the time of filing the application or within 60 (sixty) days thereafter, otherwise, the document will be disregarded.

Paragraph 2. The fees associated with the filling and processing of the application must be paid in accordance with the conditions established by the BRPTO, otherwise, it will be deemed non-existent.” (New wording)

“Article 158. Once filed, the application will proceed to a sua sponte examination, during which requirements may be made that must be responded to within a period of 60 (sixty) days.” (New wording)

“Article 160. Once the sua sponte examination is completed, a decision will be rendered for:

- 1 – the preliminary grant; or
- 2 – the rejection of the application for registration.

Sole paragraph. No appeal can be filed against a preliminary grant Decision ”(New wording)

“Article 160-A. The preliminary grant decision will be published for the submission of oppositions within 60 (sixty) days.

Paragraph 1. The applicant will be notified of the opposition and may respond within 60 (sixty) days.



Paragraph 2. No opposition, post-grant opposition, or nullity action shall be permitted if, based on Item XXIII of Article 124, Article 126, or Paragraph 1 of Article 129, the filing of the application for trademark registration in accordance with this Law is not substantiated.” (New wording)

“Article 160-B. After the opposition period has elapsed without it being filed, a decision granting the application will be made.” (New wording)

“Article 160-C. Once the opposition has been filed and the period for the submission of replies has elapsed, the opposition will be examined.

Sole paragraph. The examination of the opposition will be restricted to the analysis of the statements contained therein.” (New wording)

“Article 160-D. Once the examination of the opposition is completed, a decision will be rendered.

Paragraph 1. Should the opposition be deemed valid, a decision will be rendered to dismiss the application for registration.

Paragraph 2. If the opposition is denied, a decision will be rendered to grant the application.” (New wording)

“Article 161. The registration certificate will be granted after the application is granted.” (New wording)

“Article 217.....

Sole paragraph. When, due to international agreements, the obligation provided for in the head provision is not applicable, the BRPTO will be informed by Brazilian Courts about the existence of a court order and will notify the party through the World Intellectual Property Organization (WIPO), so that it can provide the power of attorney mentioned in the head provision of this Article within 60 (sixty) days, counting from the effective receipt of the notice, otherwise, the provisions of Item V of the head provision of Article 78, in Item IV of the head provision of Article 119, or in Item IV of the head provision of Article 142 of this Law will apply.” (New wording)



Article 2. The following provisions of Law No. 9,279, of May 14, 1996, are hereby repealed:

- I – Paragraphs 1 and 2 of Article 38;
- II – Paragraphs 1 and 2 of Article 158;
- III – the head provision of Article 159;
- VI – Article 162.

Article 3. The amendments enacted by this Bill will only apply to patent and trademark applications filed with the Brazilian Patent and Trademark Office (BRPTO) from the date this Bill enters into force.

Article 4. This Bill takes effect on the date of its publication.

Commission Room,

, the Chair
SENATOR RENAN CALHEIROS
MDB/AL

Rapporteur
SENATOR JAQUES
WAGNER