

# Kluwer Patent Blog

## Green Patents: encouraging sustainable innovation in Brazil

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As of December 1<sup>st</sup>, 2023, Brazil is leading G20, wherein one of the three priorities to be addressed is tackling climate change, with a focus on energy transition, in addition to promoting sustainable development in its economic, social and environmental dimensions[1]. At this same date, the BRPTO launched a new commission, namely: sustainability and biotechnology commission (COSBIO), which will deal, among other things, with the Green Patents Program, which focuses in expediting the examination of patent applications related to environmentally friendly inventions and consequently encouraging sustainable innovation.

The BRPTO's Green Patents Program started in 2012, in line with the public policy to fight climate change, and became a permanent project in 2016, due to the success of having over 400 applications participating in these first four years.

By now, over a thousand applications have had their examination expedited by this fast-track alternative, significantly reducing the time to patent grant. Particularly, as can be seen below, considering the last two years, the average time between the request for participation into the Green Patents Program and the issuance of a decision by the BRPTO is of around **9 months**. On the other hand, for a regular patent application, the average pendency time from the examination request to the issuance of a decision is of around **3 years and 7 months**.

## Average time between examination/fast-track request and the issuance of a decision

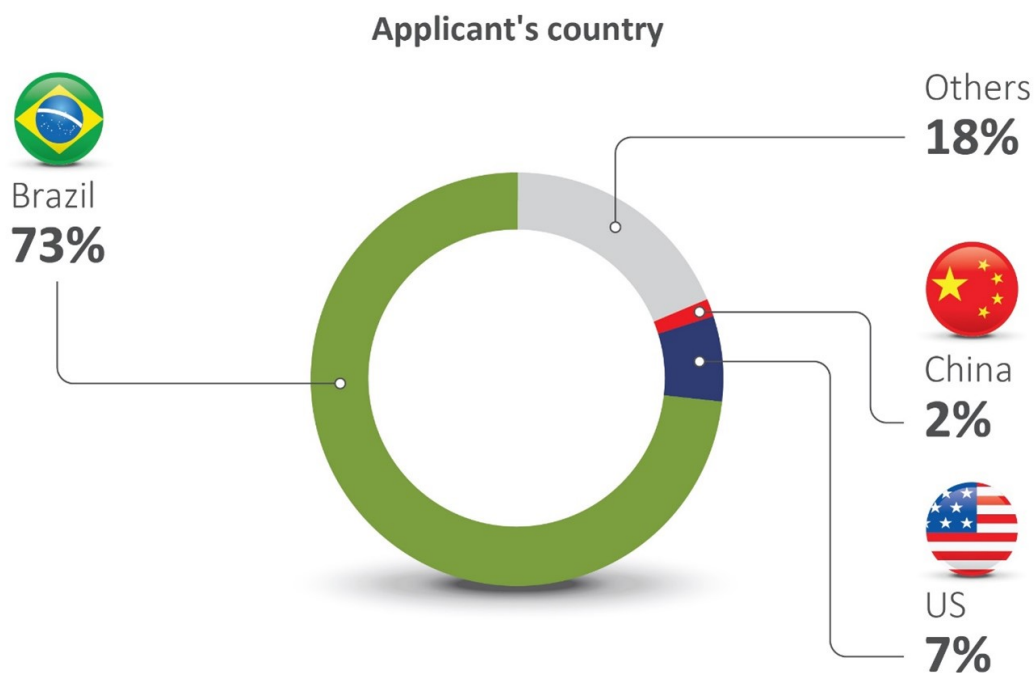


In addition to expediting the examination of the applications, the Green Patents Program is also an interesting way of easily identifying green technologies to be licensed and represents a real incentive for sustainable development.

To participate in this fast-track examination, the applicant must pay a specific fee and submit a request indicating which green technology their subject matter refers to with reference to a list of pre-defined technologies. As established by BRPTO's Ordinance #79/2022, the eligible green technologies are defined in five categories: "alternative energies", "transportation", "energy conservation", "waste management" and "sustainable agriculture", which are more detailed in several subcategories, such as biofuels, electric vehicles, pollution control, alternative pesticides, among others.

The chemical and metallurgical field represents the technical field which is more engaged with the Green Patents Program, with more than 400 applications so far benefitting from expedited examination.

Despite of the high number of patent applications using the Green Patents Program, it seems that the program is not well known ot international applicants. Statistics show that more than 70% of the participants refer to Brazilian applicants, followed by American, Chinese, among others.



In comparison, that is not the same scenario for other fast-track programs, such as those related to health treatments, wherein the biggest participants are American applicants, followed by Brazilian, Swiss, British and German, among others.

Moreover, it is noted that the favorite acceleration alternative for international applicants is still the Patent Prosecution Highway program, with over 2,000 requests in the last three years. However, in view of the yearly limits imposed by the BRPTO being sooner reached (for example, in 2023, the limit was reached by early July), international applicants should consider different alternatives for avoiding the BRPTO's delay in examining patent applications, such as the Green Patents Program.

Also, a significant requirement for the PPH program is that the patent application shall not have its examination started, *i.e.*, after the issuance of a technical opinion by the BRPTO, it is not possible to request participation into said program anymore. The Green Patents Program, in its turn, can be required at any time during the prosecution of a patent application, including during the appeal stage.

Another advantage of the Green Patents Program compared to the PPH is the reduced costs, wherein the official fees for requesting the participation for green patents is almost half the cost involved in requesting the PPH examination.

It should be highlighted that, as any fast-track and PPH program, the Green Patents status does not guarantee the allowance of the application but makes its examination a priority in the BRPTO's line and it is a great strategy when time is an essential factor.

[ 1 ]

<https://agenciabrasil.ebc.com.br/en/politica/noticia/2023-11/lula-leading-g20-brazils-top-global-responsibility> (accessed on April 05, 2024)

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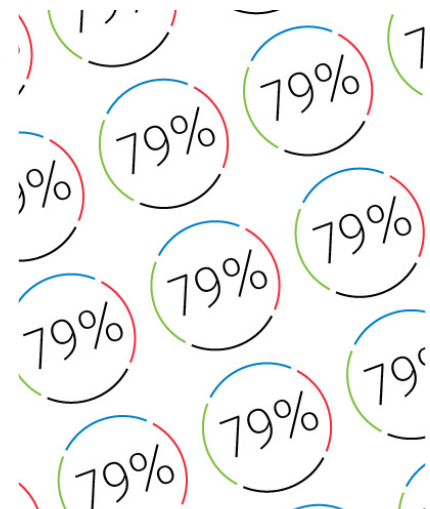
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