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Brazil's Integration into the Global PPH: Key Updates for Patent Applicants

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UPDATE on December 24: The Brazilian PTO issued Ordinance N° 26/2024, introducing critical updates to the Patent Prosecution Highway (PPH) program under Phase V, the so called Global PPH (GPPH) adherence, set to begin on January 1, 2025. Among these changes is a restriction that excludes patents classified under IPC H04 (Telecommunications) from the PPH program in Q1 of 2025. This last-minute decision significantly impacts Applicants preparing to leverage Brazil's recent participation in the GPPH, particularly those in the telecommunications sector.

Quarterly Request Distribution

Under the new framework, the 3,200 annual PPH requests are now divided into 800 per quarter, starting on January 1, April 1, July 1, and October 1, respectively. Applications are processed on a first-come, first-served basis. While this quarterly distribution ensures requests are spread throughout the year, the abrupt addition of restrictions creates uncertainty for applicants in specific technological areas.

Restrictions on Telecommunications Patents

The new Ordinance introduces a key limitation: patents under IPC H04 (mainly aimed at telecommunications) are excluded from the PPH program in the first quarter of 2025. This decision directly affects Applicants working on technologies such as mobile communications, wireless systems, and data transmission.

Original Post and PPH publication

On July 6, 2024, the Brazilian PTO joined the Global Patent Prosecution Highway (GPPH) program, representing another significant advancement in Brazil's intellectual property framework. This initiative, aligned with the 2023-2025 Action Plan of the Intellectual Property National Strategy, aims to streamline patent examination processes and enhance Brazil's participation in the global IP system.

On December 10, 2024, the BRPTO issued Ordinance INPI/PR N° 48 of November 29, 2024, initiating Phase V of the Patent Prosecution Highway (PPH) program. Effective January 1, 2025, this Ordinance introduces pivotal changes to the PPH framework, notably increasing the annual request limits and removing the previous weekly submission restriction per applicant.

Transition to the Global PPH (GPPH)

BRPTO's adherence to the GPPH represents a shift from bilateral agreements to a multilateral collaboration involving 35 Intellectual Property Offices worldwide. This integration facilitates accelerated patent examinations by allowing applicants to leverage favorable examination outcomes from any participating office to expedite corresponding applications in Brazil.

The GPPH framework standardizes procedures across member offices, improving predictability, efficiency, and success rates in patent prosecution. Applicants benefit from reduced redundancy in examinations and faster patent grants, fostering a more innovation-friendly environment.

Increase in Annual Request Limits

Under the previous Ordinance #78/2022, the PPH program capped annual requests at 800, with a maximum of 250 per section of International Patent Classification (IPC) and 100 based on Patent Cooperation Treaty (PCT) results. The new Ordinance #48/2024 significantly increased this cap to 3,200 requests per year.

This substantial increase reflects the BRPTO's commitment to accommodating growing demand for expedited patent examinations and aligns with global best practices. It provides applicants with greater opportunities to accelerate the prosecution of their patent portfolios in Brazil. Additionally, with the increase in the number of examiners that joined the BRPTO last August, the expectation is that the average time for PPH examination will remain approximately the same.

Implications for Patent Applicants

These developments present significant advantages for patent applicants:

- **Accelerated Examination:** Leveraging the GPPH framework enables faster patent prosecution, reducing time-to-grant.
- **Global Harmonization:** Alignment with GPPH standards facilitates smoother international patent filings and prosecutions.

Strategic Recommendations

To maximize the benefits of these changes, applicants should consider the following strategies:

1. **Portfolio Assessment:** Review existing and planned patent applications to identify candidates for accelerated examination under the GPPH framework.
2. **Documentation Alignment:** Ensure that application documents meet the standardized requirements of the GPPH to facilitate seamless processing.
3. **Monitoring Updates:** Stay informed about further procedural guidelines from BRPTO to adapt strategies accordingly.

Conclusion

The BRPTO's integration into the GPPH and this subsequent update incur in a progressive step towards a more efficient and globally harmonized patent system in Brazil. These changes enhance

the country's innovation landscape by providing more robust and timely IP protection.

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