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INVENTA INTERNATIONAL

INTELLECTUAL PROPERTY

Coronavirus Digest no. 5 Patents and other intellectual property rights

The world is desperately seeking a vaccine and treatments against COVID-19 and the answer will also be found in intellectual property. For this reason, PLMJ and Inventa International have joined forces to prepare a Digest on these issues that is continuously updated. Readers of this Digest will have complete and up-to-date information on the crossover between the area of intellectual property and the challenges of COVID-19, especially regarding patents and utility models, as well as all the information on the path to obtaining a vaccine.

1. Provisional measures by Portuguese and international courts and public institutes, and new functions to assist in the field of patents

Typhoon Higos, which passed through Hong Kong on 19 August 2020, caused the courts to close, something that COVID-19 had long threatened to do. Read more [here](#).

The Spanish courts and administrative bodies finally resumed full operation after the exceptional measures adopted in the context of COVID-19. According to the Spanish law firm Grau & Angulo Abogados, despite the state of emergency, the commercial courts with jurisdiction over intellectual property have tried to maintain as much of their work as possible and have been notifying judgments and resolutions without affecting the measures taken in terms of deadlines. Article available in PDF format [here](#).

The London Court of International Arbitration (LCIA) has issued an update to the LCIA 2020 Arbitration Rules, which enters into force on 1 October 2020. These changes coincided with the pandemic, with the shift to virtual hearings and electronic communication standing out. Read more [here](#).

The restrictions imposed due to the COVID-19 pandemic created an immediate need to introduce technology into alternative dispute resolution and online arbitration practices. The following article sets out some “essential practices” to conduct virtual arbitration. Read the article [here](#).

The European Patent Office (EPO) will start using the Zoom video conferencing platform for certain oral opposition proceedings. This technical progress will make it possible to close more cases and thus contribute to greater legal certainty. Read more about this topic [here](#).

The United States Patent and Trademark Office (USPTO) has announced a pilot provisional application programme for COVID-19 patents with a deferred fee. The Director of the USPTO posted a blog post outlining the USPTO’s transition to virtual hearings on 18 September 2020. Read more [here](#).

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In response to the COVID-19 pandemic, the United States Patent and Trademark Office (USTPO) has announced an accelerated procedure for certain applications for COVID-19 trademarks and COVID-19 related qualified medical services. This will protect the brands of products and medicines being developed to fight the pandemic. Read more [here](#).

COVID-19 has led to what is now a widely known modernisation of legal services. The Intellectual Property Office of the Philippines (IPOP HL) has shown that it is not falling behind in this modernisation, having held the first two online hearings of intellectual property cases. Read more [here](#).

2. Patent Pools:

In view of the urgent need to save the health of the world's people and its economy from COVID-19, pharmaceutical companies, research institutions, health workers and hospitals are called upon to join forces to create a "Medicinal Patent Pool". What is a "Patent Pool"? What is its role in the current global pandemic? How can the entities involved join up to it? The answers to these questions can be found [here](#).

A new COVID-19 vaccination scheme registered by the European Commission stands out. The Commission has decided to register a European Citizens' Initiative (ECI) which is intended to ensure that IP rights, including patents, "do not undermine accessibility to or the availability of any future COVID-19 vaccine or treatment". The news can be found [here](#).

New patent databases are being disseminated free of charge through patent information platforms, which have indexed specific data that allow relevant searches to be carried out in a properly structured and targeted compilation. Read more [here](#).

3. Utility models

Utility models are particularly important in protecting the ventilators that have been created to help combat COVID-19, supporting the treatment of patients with respiratory failure caused by the disease. In Portugal, the Atena ventilator, produced by the Engineering and Development Centre in Matosinhos (CEiiA) received authorisation from Infarmed to be used in hospitals to fight COVID-19. Read the article on the Visão website, [here](#).

A team from the University of Aveiro has announced that it is developing an early screening tool as part of a project called "Sensecor" which is intended to make it easier to decentralise COVID-19 screening. Read the news can the SIC Notícias website [here](#).

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4. The road to vaccines

The US has already announced the distribution of a vaccine against COVID-19 for November of this year. The US authorities are giving notice to the various States to prepare for the large-scale distribution of vaccines. This will take place in early November, even before the presidential elections. Read the news on the [Le Monde](#) website.

In addition, to safeguard the distribution of a future vaccine against the new Coronavirus, the EU has been negotiating the purchase and distribution of promising vaccines in the context of COVID-19 with pharmaceuticals and biotechnology companies. AstraZeneca, BioNTech-Pfizer Moderna, CureVac, Johnson & Johnson and Sanofi-GSK are thus trying to ensure safe and effective vaccines to be distributed throughout the EU. The news can be found on the [European Commission's website](#).

However, the European Union is prepared to purchase and distribute a vaccine not approved by the European Medicines Agency if no other option is available. Read the news on the Politico website [here](#).

The vaccine developed by AstraZeneca has recently entered the last phase of testing in the USA. AstraZeneca is now recruiting 30,000 adults from the age of 18 to participate in the tests. Read the CNN news article [here](#).

However, clinical trials of the vaccine being developed by the pharmaceutical company AstraZeneca in conjunction with Oxford University was suspended when a side effect possibly caused by the vaccine was discovered. AstraZeneca is now sharing the side effect suffered by the volunteer and you can read about it [here](#) on the SIC Notícias website.

A group of international experts on health ethics has criticised the WHO's decision to distribute vaccines equally across various countries. These experts say that the fairest way to allow access to a vaccine against the new Coronavirus is to prioritise the countries that need it most, that is, the countries most affected by COVID-19. Read the news article [here](#).

5. Litigation

At one time, the pandemic forced trade to shut down on a global scale. Governments in individual countries had no choice but to close establishments open to the public in order to avoid the spread of the virus and protect public health.

The situation caused serious economic damage to the establishments that were forced to close. This led to an increase in collective actions against insurance companies that said they would not bear the cost of the damage caused by forced closure. Read the article on the [Pierce Atwood website](#).

Disputes in Europe have increased due to the restrictive measures imposed by the governments of various countries. Health and safety, insurance coverage, employment and economic freedom are some of the topics at issue in court cases. Read the news on the [Law.com](#) website.

6. The “Fake News” phenomenon

“Infodemic”: false information that has been circulating on social networks in relation to COVID-19. It is necessary to verify what is and what is not true. Read more [here](#).

7. Artificial intelligence

The use of AI technologies, their main challenges and the possible harmful consequences of their use: the set of data that can be introduced into these technologies that should be used to mitigate any such consequences. Read more [here](#).

8. Privacy and Data Protection

COVID-19 is making face-to-face meetings the exception and virtual meetings the rule. However, the use of virtual means to supply products and services necessarily raises issues of data privacy, technology and financial regulation. Available [here](#). ■

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