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Portugal

INTELLECTUAL PROPERTY

Contributing firm

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This country-specific Q&A provides an overview of intellectual property laws and regulations applicable in Portugal.

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PORTUGAL

INTELLECTUAL PROPERTY



1. What different types of intellectual property rights exist to protect: (a) Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how); (b) Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees); (c) Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

- a. **Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how);** In Portugal, inventions can be protected by **patents**, supplementary protection certificates (“**SPCs**”) (for medicines and plant protection products), and utility models (“**UMs**”). The Industrial Property Code (“IP Code”) approved by Decree-law 110/2018 of 19 December 2018 also provides protection for trade secrets, as a result of the incorporation into Portuguese law of Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016. **Trade secrets** protection includes the protection of undisclosed know-how and confidential business information against their unlawful acquisition, use and disclosure.
- b. **Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality**

guarantees); Trademarks (including association marks, certification marks, and hallmarks), logotypes, company names, designations of origin (“**DOs**”), geographical indications (“**GIs**”), and **rewards. Unfair competition** is sanctioned by the IP Code as an administrative offence, and includes any acts likely to lead to confusion with products or services of competitors.

- c. **Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how). Copyright** (literary and artistic works) and **related rights** (performances, phonograms, broadcasts), design rights (“**DRs**”), **domain names**, semiconductor topography rights (“**STRs**”), **plant variety rights**, and **database rights**.

2. What is the duration of each of these intellectual property rights? What procedures exist to extend the life of registered rights in appropriate circumstances?

- a. **Patents** have a maximum duration of 20 years from the date of the patent application. In patents relating to medicines and plant protection products, an extension of the term may be available by applying for an SPC. If granted, the SPC extends the protection conferred by the basic patent for the time between the filing of the patent application and the date of granting of the marketing authorisation of the product, minus five years. The validity of the SPC cannot, however, exceed five years from the date of expiry of the basic patent, except when it concerns medicines for paediatric use, where a further six-month extension is available. **UMs** have a

maximum duration of 10 years (6 years from the date of the application, which may be renewed twice for a two-year period). Trade secrets exist as long as they qualify as such.

- b. For **trademarks and logotypes** registration protects the rights for 10 years from the date of the application, which can be renewed for equal periods, without limitation. **Company names** do not have a maximum duration. **DOs and GIs** do not have a maximum duration. However, registrations regarding DOs and GIs may lapse if they become, according to fair, long-standing and constant usage in economic activity, merely the generic name for a manufacturing system or a particular type of product.

Rewards do not have a maximum duration (registration will lapse when the granting of the reward is revoked or cancelled).

- c. As regards **copyrights**, economic rights are subject to a 70-year term after the death of the intellectual creator, even if the work was only published or disseminated posthumously. Moral rights are imprescriptible. **Copyright related rights** expire after a period of 50 years from: i. the performance or representation by the performer; ii. the first fixation, by the producer, of the videogram or film; or iii. after the first broadcast by the broadcasting organisation, whether the broadcast is transmitted by wire or over the air, including cable or satellite. **DRs** have a maximum term of 25 years (5 years from the date of the application, renewable for equal periods up to that term).

Domain names do not have a maximum duration and can be renewed without limitation.

STRs have a maximum duration of 10 years, from the date of the application, or from the date when the topography was, for the first time, exploited in any place, if before the date of application.

Where obtaining, verifying or presenting the contents of a **database** represents a substantial investment from a qualitative or quantitative point of view, its manufacturer will be entitled to authorise or prohibit the extraction and/or the re-utilisation of all or a substantial part, evaluated qualitatively or quantitatively, of its contents, subject to a 15-year term.

3. Who is the first owner of each of these intellectual property rights and is this different for rights created in the course of employment or under a commission?

Patents, SPCs, UMs, STRs and DRs: as a general rule, ownership belongs to the inventor or to their successors in title. However, if the inventor is an employee and the inventive activity is provided for in the employment contract, the right belongs originally to the employer. This principle also applies, with the necessary adaptations, to inventions made to order. If the inventive activity is not provided for in the employment contract, the employer will, in principle, have the right to claim ownership over the inventions whose technical solution relates to the activity of the company, or that was achieved by the employee with the use of relevant means of the company, upon remuneration of the employee.

The right to register a **trademark** or **logotype** belongs to whoever has a legitimate interest in it.

Registration for **DOs** and **GIs** can be applied for by the bodies that define the requirements for a product to have a DO or a GI, or by those who have products which meet the requirements to have a DO or a GI.

Ownership of a **reward** belongs to the natural or legal person who has received a recognition, praise or preference for their products.

Copyright: the general rule on ownership is that the rights belong to the intellectual creator of the work. The law provides some exceptions to this general rule with regard to software, databases, photographic works, and unsigned journalistic works, where copyright is originally held by the employer or by the commissioner of the work. Contractual provisions may provide differently.

4. Which of the intellectual property rights described above are registered rights?

- a. Patents, SPCs, UMs;
- b. Trademarks, logotypes, company names, DOs, GIs, rewards; and
- c. DRs, domain names, STRs and plant varieties.

5. Who can apply for registration of these intellectual property rights and, briefly, what is the procedure for registration?

Patents, SPCs and **STRs:** any natural or legal person with the capacity to acquire rights. The registration procedure for a Portuguese patent begins with the filing

of a **patent** application at the Portuguese Institute of Industrial Property ("INPI"), with the identification of the applicant, of the inventors, and with a document containing the summary of the invention, its description, drawings, and claims. After a formal examination, the INPI will perform a search report with the detected prior art. The patent application will be published 18 months after the application date, and a 2-month opposition period will open. After the opposition stage, the INPI will examine the application and issue a decision to grant or refuse the registration of the patent. The decision of refusal may be appealed to the Intellectual Property Court ("IPC"). The **SPC** application must be lodged within 6 months of the marketing authorisation being granted or, where the marketing authorisation is granted before the basic patent is granted, within 6 months of the date on which the patent is granted. Procedure for registration of a **STR** is similar to the patent registration procedure.

UMs: any natural or legal person with the capacity to acquire rights. The registration procedure for a Portuguese **utility model** is similar to a patent registration procedure, except for the deadline for publication of the application, which is 6 months, whereas in a patent procedure publication occurs only 18 months after the filing of the application.

Trademarks, logotypes, DOs, and GIs: any natural or legal person with the capacity to acquire rights. The registration procedure for these IP rights generally begins with the filing of an application at INPI and, after formal examination, with the publication of the application for the purposes of possible opposition by third parties. After the end of the opposition period, or after the opposition phase, the INPI will examine the application and issue a decision of grant/refusal.

DRs: any natural or legal person with the capacity to acquire rights (e.g., the creator or designer). The procedure of registration is similar to a trademark registration procedure, except for the substantive examination by INPI, which only occurs if an opposition is filed by a third party.

The registration of **company names** is carried out at the National Company Registrar ("RNPC"), by any natural or legal person, sole trader, member of a legal entity or the entity itself through a simple application for the verification of admissibility of the company name.

The registration of **rewards** is made by filing an application at the INPI, which will examine the documents provided by the applicant and issue a decision of grant or refusal.

Regarding .pt **domain names**, any natural or legal

person with the capacity to acquire rights may apply for its registration through the DNS system.

6. How long does the registration procedure usually take?

Patents and STRs: around 2-3 years; **UMs:** around 1.5-2 years; **Trademarks, logotypes:** around 4-6 months; **DRs:** around 3-4 months; **DOs, and GIs** - around 3-9 months; **Company names** - in the case of pre-approved names by the RNPC, registration can be done immediately. Otherwise, registration procedure usually takes at least 10 days for regular applications, or 1 day for urgent applications. **Domain names:** less than 2 weeks. **Rewards:** around 2-4 months.

7. Do third parties have the right to take part in or comment on the registration process?

Yes. Interested third parties can intervene in the registration procedure before INPI, by filing oppositions against the registration of industrial property rights. Any interested party can also file additional submissions before the INPI to better clarify the process. In relation to trademarks and logotypes, the IP Code further allows the filing of third-party observations to invoke absolute grounds of refusal of such rights.

8. What (if any) steps can the applicant take if registration is refused?

Under the IP Code, the decisions of refusal of registration of industrial property rights are appealable to the Intellectual Property Court within 2 months of the publication of the decision of refusal in the IP Bulletin.

The decision of the IPC may be appealed to the Lisbon Court of Appeal.

9. What are the current application and renewal fees for each of these intellectual property rights?

Industrial Property Rights

<https://inpi.justica.gov.pt/Portals/6/PDF%20INPI/Taxas/Tabelas%20de%20taxas/Delibera%C3%A7%C3%A3o%20580-2021%20-%20taxas.pdf?ver=tbu5PwZgLvB9SYEqnA9bQ%3d%3d×tamp=1623247829872>

10. What are the consequences of a failure to pay any renewal fees and what (if any) steps can be taken to remedy a failure to pay renewal fees?

Failure to pay renewal fees lead to a lapse of rights.

Renewal fees can be paid within a 6 months grace period from the due date for payment, with a surcharge corresponding to 50% of the renewal fees.

Revalidation of any **patent** title, **UM** or registration that has lapsed for lack of payment of fees may be requested within one year from the date of publication of the notice of lapse in the IP Bulletin. The revalidation can only be authorised with the payment of an amount corresponding to three times the outstanding fees, and without prejudice to the rights of third parties.

11. What are the requirements to assign ownership of each of the intellectual property rights described above?

Patents, UMs, and STRs, and their applications, can be assigned in full to a third party upon payment or free of charge. Rights arising from **DRs** and **trademarks**, and from their corresponding application, can also be assigned, in full or in part.

Assignment must be proved by written document, but if the recordal of the assignment is requested by the transferor, the transferee must also sign the document that proves it or make a statement accepting the assignment.

Patent, UMs and **DRs** are not subject to special requirements of assignment.

However, some specific rules exist with regard to the assignment of **trademarks** and **logotypes**. The transfer of a company implies the transfer of the trademark, unless otherwise stipulated or if circumstances clearly show otherwise. When used in an establishment, the rights emerging from a logotype application or registration can only be assigned with the establishment itself.

The full assignment of **copyright** economic rights must be made by notarial public deed, mentioning the work transferred and the transfer price. Otherwise, the assignment is null and void.

12. Is there a requirement to register an

assignment of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Although it is not a prerequisite for the valid assignment of rights, the registration in INPI is necessary for the assignment of industrial property rights to take effect in relation to third parties.

The assignment, even if not registered, can be invoked between the parties themselves or their successors.

13. What are the requirements to licence a third party to use each of the intellectual property rights described above?

Industrial property rights licence agreements must be in writing. According to case law, a non-written licence agreement is null and void (*ad substantiam* requirement).

Copyright licence agreements are also subject to written form, although legal doctrine classifies this requirement as an *ad probationem* requirement (i.e., the non-written licence will not be considered null and void).

14. Is there a requirement to register a licence of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Industrial property licences must be recorded to be effective against third parties.

15. Are exclusive and non-exclusive licensees given different rights in respect of the enforcement of the licensed IP, and if so, how do those rights differ?

The IP Code provides, as a general rule, that civil enforcement of industrial property rights may be requested by all persons having a direct interest in its enactment, so it can be done by the holders of the registration and, unless otherwise stipulated, by the licensees, under the terms provided for in the licence agreements.

With regard to trademarks, the IP Code further provides that, unless otherwise stipulated, a licensee may bring an action for infringement of a trademark only with the consent of its holder. There is no difference between the exclusive or non-exclusive licensee in this respect.

However, the exclusive licensee of a trademark may bring the action referred to above if, after prior notice, the holder does not bring such action within a period that may not exceed six months.

16. Are there criminal sanctions for infringement of any intellectual property rights, and if so, what are they and how are they invoked?

Yes. The IP Code and the Portuguese Copyright and Related Rights Code ("CDADC") provide criminal sanctions for infringement of industrial property rights and copyrights.

Infringement of patents, **UMs, STRs, DRs, trademarks, logotypes, DOs and GIs** may be considered a criminal offence (under specific circumstances), punishable with imprisonment for up to 3 years or a fine of up to 360 days. Criminal proceedings relating to industrial property rights depend on the filing of a criminal complaint.

Some **copyright** infringing actions may also be punished criminally, with a sentence of up to 3 years of imprisonment and payment of 150 to 250 days fine (applicable to e.g. misusing and counterfeiting in infringement of copyright). Criminal proceedings relating to copyrights do not depend on the filing of a criminal complaint, except for crimes exclusively relating to moral rights.

17. What other enforcement options are available for each of the intellectual property rights described above? For example, civil court proceedings, intellectual property office proceedings, administrative proceedings, alternative dispute resolution.

Civil court proceedings are available in relation to industrial property rights and copyrights. The two main types of civil proceedings, to be filed before the Intellectual Property Court, are preliminary injunctions and main actions. Although preliminary injunctions are functionally dependent on a main action, both types of proceedings can be brought in parallel over the same subject matter and may also run separate of each other.

Alternative dispute resolution is available in relation to enforcement of intellectual property rights and has mainly been used in Portugal for the filing of inhibitory actions relating to pharmaceutical patents and generic medicines, provided for in Law 62/2011 of 12 December

2011 ("Law 62/2011"). Law 62/2011 originally established mandatory arbitration for resolving the disputes above. This system was abandoned in January 2019 and such cases are now resolved by the Intellectual Property Court or, upon agreement of the parties, by voluntary arbitration.

Administrative proceedings are available in relation to unlawful competition, violation of trade secrets, and infringement of some industrial property rights, upon complaint to the Portuguese Authority for Economic and Food Safety ("ASAE").

Customs enforcement of intellectual property rights is available under the provisions of Regulation (EU) 608/2013 of the European Parliament and of the Council.

18. What is the length and cost of such procedures?

Preliminary injunctions: around 4-12 months

Main actions: around 1-3 years

Arbitration proceedings under Law 62/2011: around 1-2 years

Cost: judicial fees vary in accordance with the value attributed to the action by the court. Normally, the judicial fees to be paid to the Intellectual Property Court for the filing of a statement of claim in an IP case without a request for payment of damages is of €612 (six hundred and twelve euros). In arbitration proceedings under Law 62/2011, the arbitrator's fees are usually around €60,000 (sixty thousand euros).

19. Where court action is available, please provide details of which court(s) have jurisdiction, how to start proceedings, the basics of the procedure, the time to trial, the format of the trial, the time to judgment and award of relief and whether any appeal is available.

The Intellectual Property Court, with its seat in Lisbon, is the civil court with jurisdiction to rule on:

- i. Actions on **copyright** and **related rights**;
- ii. Actions on industrial property rights;
- iii. Actions regarding contracts and legal acts whose object is the constitution, assignment, disposal, licensing and authorisation of use of copyrights, related rights and industrial property rights;

- iv. The nullity and annulment of **patents, SPCs, UMs** and **STRs**, as well as applications for the declaration of nullity or annulment of registrations of **DRs, trademarks, logotypes, rewards, DOs** and **GIs** deducted in counterclaims;
- v. Appeals against decisions of the INPI on industrial property rights;
- vi. Appeals against decisions of the IGAC on IP rights;
- vii. Interim measures to obtain and preserve evidence and to provide information to protect IP rights;
- viii. Actions on **domain names**;
- ix. Actions on **company names**; and
- x. Actions on **unfair competition** or violation of **trade secrets** in matters of industrial property.

Preliminary injunction proceedings are urgent in nature. The pleadings phase starts with an application by the applicant, followed by the opposition of the defendant. The opposition ends the pleadings phase. Subsequently, the court will schedule a trial hearing to hear the witnesses of the parties and to allow the discussion on the facts and applicable law. A decision granting or refusing the preliminary injunction is delivered around 4-12 months from the filing of the application by the applicant. In some cases, ex parte injunctions may also be requested from the court. Appeals against the preliminary injunction decisions of the IPC are available to the Lisbon Court of Appeal.

The main action starts with a statement of claim. Basics of procedure:

- i. Statement of claim;
- ii. Statement of defence;
- iii. Statement of reply (if a counterclaim is made with the statement of defence)
- iv. Preliminary hearing
- v. Trial hearing
- vi. Judgment

First instance judgment usually occurs around 1-3 years from the date of filing of the statement of claim. In the preliminary hearing, the judge attempts to conciliate the parties, discuss the position of the parties with respect to the dispute, and prepare and schedule the trial hearing. In the trial hearing, the judge hears the parties depositions (if any), experts (if any), witnesses (live depositions), and the closing arguments of the parties'. The judgment is usually delivered around 3-6 months from the end of the trial hearing and it can be appealed to the Lisbon Court of Appeal and, in specific circumstances, to the Supreme Court.

In arbitration proceedings, the arbitral tribunal can implement its own procedural rules (which are simpler than the rules of the Civil Procedure Code applicable to main actions). In standard voluntary arbitrations, the arbitral award is final and binding, and it is immediately enforceable (i.e., there is no appeal). However, in arbitrations regarding pharmaceutical patents under Law 62/2011, appeal to the Lisbon Court of Appeal is available.

20. What customs procedures are available to stop the import and/or export of infringing goods?

Customs enforcement of intellectual property rights is available under the provisions of Regulation (EU) 608/2013 of the European Parliament and of the Council.

21. Are any non-court enforcement options or dispute resolution mechanisms mandatory in respect of intellectual property disputes in any circumstances? If so, please provide details.

No.

22. What options are available to settle intellectual property disputes?

In and out-of-court settlements.

23. What is required to establish infringement of each of the intellectual property rights described above? What evidence is necessary in this context?

In general terms, the burden of proof is on the claimant to demonstrate that the alleged infringer has performed an action which is described in the IP Code as being an infringing action of industrial property rights. The same applies, with the necessary adaptations, to **copyrights**.

In relation to **patents** and **SPCs**, the claimant must demonstrate that the defendant manufactures, offers, stores, placed on the market or uses a patented product, or has imported or possesses such product for the above purposes. Patent infringement will also occur if the claimant demonstrates that the defendant used a patented process or placed products in the market which were obtain directly through the patented process. Comparable provisions apply to **UMs** and **STRs**.

With regard to **trade secrets**, the claimant must demonstrate that the defendant unlawfully acquired, used or disclosed a trade secret.

With regard to **trademarks**, infringement is established where a third party, without the consent of the claimant (usually, the holder of the trademark), uses in engaging in economic activities, any sign if:

- i. that sign is identical to the trademark and is used in relation to identical goods or services to the goods or services covered by the trademark registration;
- ii. that sign is identical to the trademark and is used in relation to goods or services which are similar to the goods or services covered by the registration, or if that sign is similar to the trademark and is used in relation to goods or services identical or similar to the goods or services covered by registration, if there is a risk of confusion or association in the consumer;
- iii. that sign is identical or similar to the mark and is used in relation to products or services, whether or not covered by the registration, if the trademark enjoys a reputation in Portugal or in the European Union, if it is a European Union trademark, and the use of the sign takes undue advantage of the reputation of the trademark.

DRs infringement will occur where a third party uses the design without the consent of its owner.

With regard to **copyright and related rights**, that the defendant used the protected work without consent or as its own creation.

All legitimately acquired evidence can be used to establish intellectual property rights infringement, including the possible request for evidence in the possession of the defendant.

24. How does the court acquire any necessary information (fact or technical) and in what circumstances does it do so? In particular a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence? b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or

discovery available?

- a. **Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence?** There are no technical judges at the IPC.

Experts may take part in the proceedings in the capacity of expert (normally at the request of the parties), as expert witnesses, or through the submission of expert opinions. Technical experts may also take part as assistants of the judge or of the parties.

- b. **What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?** Measures for obtaining and protecting evidence are available.

Whenever evidence is in the possession, dependence or under the control of the opposing party or of a third party, the interested party can ask the court to produce such evidence, provided that sufficient evidence of infringement of industrial property rights, copyrights or of trade secrets is presented to support the claim.

Whenever there is infringement or justified fear that other party may cause serious and difficult to repair injury to an industrial property right, copyright or trade secret, the interested party can apply for urgent and effective provisional measures aimed at preserving evidence of the alleged infringement. These measures may include a detailed description, with or without collection of samples, or actual seizure of the goods suspected of infringing industrial property rights, copyrights or trade secrets and, whenever appropriate, of the materials and instruments used in the production or distribution of those goods, as well as the documents relating to them.

25. How is information and evidence submitted to the court scrutinised? For example, is cross-examination available and if so, how frequently is it employed in practice?

The judge will freely assess the evidence (documentary or witness evidence) according to his or her prudent

conviction about each fact. The free assessment will not cover facts where the law requires a special formality to prove them, nor those which can only be proved by documents or which are fully proved, either by documents, or by agreement or admission of the parties.

Cross examination of witnesses is available, although it is limited to the content of witness deposition given under examination.

26. What defences to infringement are available?

E.g.,

- i. Non-infringement;
- ii. Invalidity of the asserted right(s);
- iii. Limitation of rights;
- iv. Exhaustion of rights;
- v. Lapse of rights;
- vi. Free use;
- vii. Private use;
- viii. Prior use;
- ix. Licences.

27. Who can challenge each of the intellectual property rights described above?

Patents, SPCs, UMs and TPRs can be challenged by any interested party through declarations of nullity or annulment, and by the Public Prosecutor.

Trademarks, logos, company names, DRs, domain names, OGs, GIs and rewards can be challenged by any interested party.

28. When may a challenge to these intellectual property rights be made (e.g. during any registration process or at any time during the subsistence of the right)?

Opposition proceedings are available during the registration process of industrial property rights.

During the subsistence of rights, there is the possibility to challenge the validity of industrial property rights. Nullity can be argued at any time during the subsistence of the rights by any interested party. Annulment of most industrial property rights is available within 5 years from the decision of grant.

29. Briefly, what is the forum and the procedure for challenging each of these intellectual property rights and what are the grounds for a finding of invalidity of each of these intellectual property rights?

Patents, SPCs, UMs and STRs – a declaration of nullity or annulment may only result from an IP Court decision.

Trademarks, logos, DRs, OGs, GIs and rewards – declarations of nullity or annulment are filed at the INPI, unless there is an action pending at the IPC, where invalidity may be argued by the defendant in counterclaim.

Grounds for the finding of invalidity:

- **Patents, UMs:** usually, lack of novelty or lack of an inventive step.
- **SPCs:** usually, failure to comply with the requirements provided for in article 3 of Regulation (EC) 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products.
- **Trademarks:** e.g., likelihood of confusion with prior rights, lack of genuine use, registration in bad faith.
- **Designs:** e.g., lack of novelty or lack of distinctive nature.

30. Are there any other methods to remove or limit the effect of any of the intellectual property rights described above, for example, declaratory relief or licences of right?

Non-infringement declaratory actions are available under the procedural rules, although they are not commonly used.

The IP Code provides the possibility of granting compulsory patent licences, under very specific circumstances.

31. What remedies (both interim and final) are available for infringement of each of the intellectual property rights described above?

The IP Code and CDADC contain provisions which are a result of the incorporation into Portuguese law of the Enforcement Directive (Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004

on the enforcement of intellectual property rights).

Apart from injunctions and claims for damages, other remedies are available, such as product recall and destruction, claims to information on the channels of distribution of the infringing products or services, or publication of judicial decisions.

32. What are the costs of enforcement proceedings and is any kind of costs recovery available for successful parties? Is there a procedural mechanism enabling or requiring security for costs?

Costs of enforcement proceedings vary in accordance with the nature of the proceedings (e.g., arbitration or judicial proceedings) and with the value of the claim in the action.

The winning party may generally claim reimbursement of its fees, and a percentage of the total amount of the

fees paid by the parties as compensation.

The IP Code provides that, when determining the amount of damages, the court must take into account the costs incurred in the protection, investigation and termination of the infringing conduct.

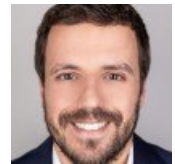
33. Has the COVID-19 pandemic caused any changes (temporary or permanent) to the protection or enforcement of intellectual property? For example, changes to deadlines, filing or evidence requirements or court processes.

COVID-19 caused temporary changes to the protection and enforcement of IP, including the suspension of some procedural deadlines, and corresponding delays in judicial or arbitral proceedings. The exceptional measures adopted during the pandemic have been lifted and the protection and enforcement of intellectual property have resumed their normal course.

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