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# Brazil: ACCESSION TO THE MADRID PROTOCOL; NEW TRADEMARK PRACTICES

By [Karen Lim](#)

Brazil acceded to the Madrid Protocol on July 3, 2019 making it the 105th member of the Madrid System. The Protocol will enter into force with respect to Brazil on October 2, 2019.

The following new trademark practices have been introduced to accommodate Brazil's accession. [More](#)

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The following new trademark practices have been introduced to accommodate Brazil's accession. These new practices apply equally to Brazilian applications that serve as the basis for an international registration and those that do not.

**1. Multiclass Trademark System** – *Effective October 2, 2019 but available through the e-INPI System only as of March 9, 2020*

- While applicants may file applications in any number of classes as of March 9, 2020, they must also file affidavits declaring that they are already active—in Brazil or elsewhere—in the areas related to the goods and/or services for which trademark protection is sought.

**2. Co-Ownership of Trademarks** – *Effective October 2, 2019 but available through the e-INPI System only as of March 9, 2020*

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- Oppositions, administrative nullity actions, and non-use cancellation requests may be filed by only one co-owner of the registration or application that forms the basis of the allegations. But recordal of assignments must be authorized by all co-owners.
  - Registrations may not be cancelled for non-use if at least one co-owner submits evidence of use. But when presenting reasons to justify non-use of a mark, proof of genuine use must be presented by all co-owners.
  - A prior right owned by a set of owners not identical to the owners of an application under examination will be considered a third-party right. In other words, if the owner of a trademark registration files together with a different applicant or applicants for an identical or similar mark covering identical or related goods/services, the application may be rejected based on the prior registration because the owners are not exactly the same.

### **3. Division of Trademark Applications and Registrations – *Effective March 9, 2020***

- Applications may be divided when examination is suspended in one of the classes of a multi-class application.
- Divisions are also allowed to transfer ownership of an application or registration, including within a class. But all registrations and applications for identical or similar marks covering identical, similar, or related goods or services must be assigned together, on penalty of cancellation of the affected registrations or removal of unassigned applications from the Brazilian Trademark Office records.
- The filing and priority dates of the original application will apply to the divided-out registration or application.

### **Primary Contacts**

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