INDUSTRIAL PROPERTY CODE AMENDMENTS

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Decree-Law 143/2008 of July 25th entered into force on October 1st, 2008 and introduced several and significant amendments to the Industrial Property Code, which intends to proceed to the revision of the mechanisms of protection and access to industrial property by individuals and companies. The amendments intend to simplify the access to the Industrial Property ("IP") system, reducing the costs inherent to the protection and the reduction of the delays.

For this purpose, several measures were adopted, namely:

i) the reduction of the delays for the practice of acts by the competent public authorities;

ii) the suppression of the formalities and simplification of the procedures;

iii) the promotion of the access and comprehension of the IP system by the individuals and companies;

iv) the establishment of services for the incentive of innovation;

In what concerns the amendments introduced by Decree-Law 143/2008 of July 25, we highlight the following aspects:

a) *General part of the Industrial Property Code*: i) in case of judicial actions based on provisory protection, it establishes the suspension of the proceedings after the end of the production of legal briefs; ii) amendments of the arbitration proceedings; amendment of the term for the priority declaration, which is now of 1 (one) month counting from the expiry of the priority term for designs or models and trademarks applications and 4 (four) months counting from the expiry priority term for patents and utility models applications; iii) the term for filling the opposition and reply can only be extended once, by means of an application duly grounded and subject to the acceptance of the Industrial Property Office;

b) *Trademarks*: i) reduction of the term to declare the priority of a previous request from 3 (three) to 1 (one) month; ii) abolition of the Declaration of Intent to Use ("DIU"); iii) reduction of the term from 2 (two) to 1 (one) month of the response to provisory refusal and for re-appreciation.

c) *Patents*: i) extension of the term to declare the priority of a previous request, from 3 (three) to 4 (four) moths; ii) establishment of a new provisory patent request and the respective procedure; iii) reduction of the term for appreciation of the patents invention, from 3 (three) to 1 (one) month; iv) introduction of the possibility to convert an European patent into a national patent, in case of revocation or refusal of the European patent; v) introduction, as penalty for the cases of double protection, of the caducity of the national patent.

d) *Utility Models:* i) establishment of a system of alternative conditions to consider an activity as inventive; ii) introduction of a new provision establishing the term of 1 (one) year to the successive presentation of a utility model request; iii) reduction of the term of appreciation of litigation proceedings from 3 (three) months to 1 (one) month;

e) *Designs*: i) reduction of the term to present the documents supporting the disclosure, which is now of one month and may be prorogued for one additional month; ii) extension of the maximum limit of products which may be included on the requests for 100 (one hundred) instead of 10 (ten); iii) abolition of the possibility to request for an appreciation, once the novelty and singular character are only appreciated by the Industrial property Institute (INPI) in case of opposing; iv) abolition of previous protection system;

f) *Name and Insignia of Establishments*: i) suppression of the names and insignia of establishment modalities, which were substituted by Logo category.

g) *Infringements:* i) reduction the maximum limit for the penalty regarding the "Violation of Logo Exclusive" for € 3.740 (three thousand, seventy hundred and forty euros) instead of € 7.500 (seven thousand and five hundred euros); ii) inclusion in the "Illicit Trademarks Use" of the trademarks which reproduce property belonging to third parties.