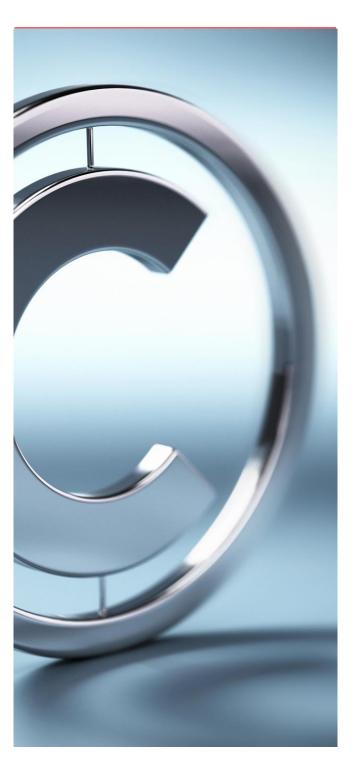


# Intelectual Property, Media and IT

Legal Flash | Portugal

July 2<sup>nd</sup>, 2019



# Contents

The new Portuguese industrial property code has completely entered into force



# I. The new Portuguese industrial property code has completely entered into force

On December 18<sup>th</sup>, 2018, Decree-Law no. 11/2018 was approved and introduced the new Portuguese industrial property code (IPC) to the Portuguese legal system. This Decree-Law also amended Law no. 62/2013 (Law of the Organization of the Judiciary system – LOSJ), as well as Law no. 62/2011 (concerning the regime for the legal disputes emerging from industrial property rights concerning medicinal products and generic medicines).

In its article 16, the IPC established its entry into force in three distinct phases:

- The amendment to Law no. 62/2011 entered into force on January 9th, 2019;
- The provisions of the IPC concerning trade secrets entered into force on January 1<sup>st</sup>, 2019; and
- The remaining provisions concerning the further changes to the IPC and the amendment to LOSJ entered into force yesterday, on July 1st, 2019;

Among the provisions that have now entered into force, the following can be highlighted:

- The Portuguese industrial property office shall be competent to decide on the claims
  of declaration of invalidity and annulment of designs, trademarks, logos, designations
  of origin and geographical indications, and rewards;
- The new regime on the serious use of trademarks: the applicant for a trademark
  application, in whose proceedings there has been an opposition on the basis of a
  previously registered trademark, may require the complainant to present evidence of
  the serious use of its trademark during the period of five consecutive years;
- The deadline for requesting the annulment of a trademark is of 5 years, instead of 10 years;
- The mandatory background examination of applications for utility models, leaving no possibility for a provisional registration;
- It is no longer mandatory that trademarks be susceptible of graphical representation, being sufficient that they can be represented in a way that allows the object of the conferred protection to its holder to be determined in a clear and precise manner;

It is also important to take into account Ordinance no. 201-A/2019, which also entered in force yesterday, July  $1^{st}$ , 2019, and which updates the amounts of the fees and provides for new fees resulting from the acts established by the new IPC, revoking Ordinance no. 1098/2008 of September  $30^{th}$ .

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