

### 3 PROTECTION AND REGULATION OF HIGHLY RENOWNED TRADEMARKS - A BRIEF OVERVIEW OF RECENT DEVELOPMENTS IN BRAZILIAN TRADEMARK LAW

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#### ABSTRACT

This article analyses Brazilian legislation for protecting and regulating highly renowned trademarks in Brazil ('*marcas de alto renome*'). It aims to examine the problems arising from the interpretation and enforcement of Brazilian Intellectual Property Law and the latest Brazilian Patent and Trademark Office Resolution. It will then demonstrate possible legislative solutions that may be implemented to bring about improved and more effective protection and regulation of this special type of trademark in Brazil.

**Keywords:** *Brazilian trademark law, highly renowned trademarks, protection and regulation*

#### I. INTRODUCTION

The age of the global market economy and the information society has brought with it the increased potential for the infringement of intellectual property rights, especially in the field of trademark law. It has also led to a paradigm shift in the protection and enforcement instruments worldwide. Whilst more attention should be given to the protection and enforcement of intellectual property, there must be an equal balance of the interests of trademark owners, competitors, and consumers.<sup>1</sup>

Protection against misappropriation and interference in the distinctive character of highly renowned trademarks is one of the basic components of any modern trademark law system. This is particularly true in the case of extended trademark protection for dissimilar goods or

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<sup>1</sup> See Enzo Baiocchi, *Der Schutz Bekannter Marken unter besonderer Berücksichtigung der zivilrechtlichen Sanktionen* (Carl Heymanns 2012) 441; Mônica C R Morgado, *Marcas de Alto Renome* (Juruá 2013) 63.

services, where it can be assumed that the goodwill and distinctiveness of a trademark are not only worthy of protection, but also especially vulnerable.

Indeed, this shows that highly renowned trademarks do not just play a special role in the 'classic' market economies of industrialized countries. They are developing an increased economic and legal importance, particularly in emerging markets such as the so-called 'BRIC' group of countries to which Brazil belongs. Special protection for highly renowned trademarks has now acquired even more legal and economic relevance in Brazil as a result of the substantial legal problems arising from the 2014 FIFA World Cup and 2016 Olympic Games, including trademark piracy and infringement, misrepresentation, and especially ambush marketing.<sup>2</sup>

This brief study will analyse the protection and regulation of highly renowned trademarks ('*marcas de alto renome*') in Brazil, provided by Article 125 of the Brazilian Industrial Property Law (BIPL) and Brazilian Patent and Trademark Office (BPTO) Resolution No. 107 dated 19 August 2013, as well as the problems arising from their interpretation and enforcement.<sup>3</sup> This analysis will provide possible legislative solutions that may be implemented, in order to achieve improved and effective protection and regulation of this special kind of trademark protection, looking to other trademark law systems worldwide for comparison.

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<sup>2</sup> See recent cases, for instance, *CBF v Retrô Mania* 3 July 2014 (3rd Commercial Court of First Instance, Court of Justice of Rio de Janeiro, Lawsuit No. 0218287-34.2014.8.19.0001); *CBF v Johnson & Johnson* 13 June 2014 (5th Commercial Court of First Instance, Court of Justice of Rio de Janeiro, Lawsuit No. 0198416-18.2014.8.19.0001); *CBF v Technos* 26 June 2013 (4th Commercial Court of First Instance, Court of Justice of Rio de Janeiro, Lawsuit No. 0217328-97.2013.8.19.0001); *CBF v Coca-Cola* 7 June 2011 (Court of Justice of Rio de Janeiro, Lawsuit No. 0383190-62.2009.8.190001); *CBF v CEF* 30 November 2010 (35th Federal Trial Court of the Second Federal Circuit, Rio de Janeiro, Lawsuit No. 2010. 02.01.007712-2). For court decisions, see José CT Soares, *Marcas notoriamente conhecidas – marcas de alto renome vs. diluição* (Lumen Juris 2010) 81.

<sup>3</sup> According to the scope and page limit of this brief essay, a historical retrospective of Brazilian industrial property laws and trademark law doctrine in connection with the protection of famous and highly renowned trademarks will not be included. For a complete overview, see Morgado (n 2) 125; E Baiocchi, 'A proteção à marca de alto renome no Brasil', in DB Barbosa and K Grau-Kuntz (eds), *Ensaio sobre o direito imaterial – estudos dedicados a Newton Silveira* (Lumen Juris 2009) 231; Denis B Barbosa, *Proteção das Marcas* (Lumen Juris 2008) 131; Maitê C F Moro, *Direito de Marcas* (Revista dos Tribunais, 2003) 77, among others.

## II. PROTECTION AND REGULATION

### A. LEGAL THEORIES AND DEFINITIONS UNDER BRAZILIAN TRADEMARK LAW

Law No. 9279 of 14 May 1996 (BIPL)<sup>4</sup> does not provide a definition for highly renowned trademarks ('marca de alto renome'). BIPL Article 125 states briefly that 'A trademark which is registered in Brazil and considered as highly renowned will be guaranteed special protection, in all fields of activity.' That Article is now regulated by BPTO Resolution No. 107/2013, the main provisions of which are set out below.

According to the BPTO, a sign is considered to be a highly renowned trademark, when its performance in distinguishing goods or services and its symbolic efficiency, expand beyond its original scope, thus exceeding the principle of speciality in trademark law, which looks to distinctiveness, recognition by a large portion of the public, quality, reputation and prestige, and its capacity to attract consumers as a result of its mere presence.<sup>5</sup>

Unlike in Europe (for instance in England, France, and Germany) and the United States, Brazilian legal literature and jurisprudence have not developed and do not advocate any special doctrine for the protection of highly renowned trademarks. Therefore, the country does not necessarily have a standard legal justification or theory for this special kind of trademark protection. On the contrary, an analysis of legal texts shows that many of the country's lawyers, judges, and scholars import foreign trademark theories such as dilution, passing off, parasitic competition, unjust enrichment, etc. and quote them indistinctly within the national legal context, without referring sometimes to the particularities of case law or the specific legal requirements of the relevant foreign theory.

Furthermore, national literature and jurisprudence both refer to positive reputation, prestige, and goodwill as attributes of so-called 'marcas de alto renome'. These expressions highlight the distinctive features of the sign, which appears as a 'symbol of quality' and whose economic and commercial value deserves special legal protection per se.<sup>6</sup>

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<sup>4</sup> English version available at:

<<http://www.inpi.gov.br/images/stories/Lei9279-ingles.pdf>> accessed 31 October 2014.

<sup>5</sup> Article 1 BPTO Resolution No. 107 of 19 August 2013 <[http://www.inpi.gov.br/portal/artigo/resolucao\\_pr\\_n\\_107\\_2013](http://www.inpi.gov.br/portal/artigo/resolucao_pr_n_107_2013)> accessed 31 October 2014; see also Maria AC Rodrigues, 'Parecer INPI/PROC/DICONS no 054/2002, de 09/10/2002' (2004) 72 Revista da ABPI 3, 15.

<sup>6</sup> Daniela A Levigard and Nilson F Silva, 'A proteção das marcas de alto renome no Brasil' (2007) 86 Revista da ABPI 41, 52.

### B. LEGAL PROTECTION ACCORDING TO BRAZILIAN INTELLECTUAL PROPERTY LAW

It is worth clarifying at the very beginning that the special protection set out in BIPL Article 125 differs from that in Article 6*bis* of the Paris Convention (implemented in BIPL Article 126) and TRIPS Article 16.3, as both of these relate to the protection of well known trademarks.<sup>7</sup> In addition, the previous legal provision concerning the protection of notorious trademarks ('marca notória'), in accordance with Article 67 of the former Brazilian Industrial Property Act, Law No. 5772 of 21 December 1971, abrogated by Law No. 9279 of 14 May 1996), differs. As demonstrated below, BIPL Article 125 introduced a new legal concept to Brazilian trademark law - the 'marca de alto renome'—especially with regard to the legal requirements related to its practical implementation, which is completely different to what was until then common practice in Brazilian trademark law.

As mentioned above, BIPL does not define what should be considered a 'marca de alto renome'. BIPL Article 125 states only that 'special protection' in all fields of activity will be guaranteed to trademarks registered in Brazil and considered to be highly renowned. It acts as an exception to the principle of specialization in Trademark Law (in other words, it is a type of extended protection for non-similar goods or services).

BIPL Article 125 is general and not a self-applicable legal clause, as it only provides two legal requirements for special protection to be granted: (i) the trademark must be registered in Brazil; and (ii) the trademark must be considered to be highly reputed (highly renowned). In other words, special protection is granted, regardless of the possibility of confusion as to the origin of goods and services or even damage to a trademark's good reputation.

Based on the legal definition provided in Article 1.1 of BPTO Resolution No. 107/2013, BIPL Article 125 provides special protection against third party attempts to register any sign that imitates or copies any highly renowned trademark (albeit when there are no similarities between goods or services), in order to curb the chances of diluting its distinctive character. It can be assumed that it provides at least

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<sup>7</sup> Regarding the non-implementation of TRIPS Article 16.3 in Brazilian Trademark Law, see E Baiocchi, 'A proteção à marca notoriamente conhecida fora do campo de semelhança entre produtos e serviços: a (não) aplicação do art. 16.3 do TRIPS no Brasil' (2009) 102 RABPI 3; E Baiocchi, 'Considerazioni sulla tutela allargata del marchio notoriamente conosciuto ai sensi dell'art. 16.3 TRIPS: uno studio dalla prospettiva del diritto dei marchi brasiliano' (2011) 3 RDI 130.

some indirect protection against dilution and undue exploitation of goodwill (parasitic exploitation).

Considering the lack of other legal requirements, BIPL Article 125 represents not only absolute and objective special trademark protection for dissimilar goods and services, but also the problem of interpretation and the insurmountable obstacle of its enforcement by trademark owners, as its wording is vague. As mentioned above, it is a general clause and is not self-applicable.

### C. LEGAL REGULATION AND IMPLEMENTATION ACCORDING TO BPTO

BPTO Resolution No. 107 was published on 19 August 2013, to regulate the administrative procedures for the implementation of BIPL Article 125. This resolution is the most recent in a sequence of administrative provisions enacted by the BPTO regarding this matter and facilitates the process used to obtain recognition of high reputation status for registered trademarks in Brazil.

The first Resolution - No. 110 - was published in 2004 (almost seven years after BIPL Article 125 came into effect in May 1997), and since then a total of four resolutions have been published containing different approaches to the implementation of this article.<sup>8</sup>

According to Articles 1.2 and 2 of Resolution 107/2013, the recognition of a trademark's high reputation status is a separate initial step (by means of an 'autonomous procedure') for the application of special protection through BIPL Article 125 and is therefore no longer bound to any incidental procedure (i.e. it is no longer necessary to request special protection and high reputation status via an opposition or administrative nullity procedure).<sup>9</sup> In other words, from now on, trademark owners may invoke the protection of BIPL Article 125 at any time during the validity of the trademark.

<sup>8</sup> BPTO Resolutions No. 110 of 2004, No. 121 of 2005, No. 23 of 2013 and most recently No. 107 of 2013, which supersedes all previous resolutions and came into effect according to its Article 16.

<sup>9</sup> In this regard and in comparison with previous resolutions, Resolution No. 107/2013 represents a paradigm shift concerning the exact moment to request special protection through BIPL Article 125. Under Resolution No. 110/2004, special protection could be requested only in two situations (i.e., incidentally in the course of an administrative procedure): (i) as a defence in an opposition against a third party trademark applications (within 60 days from the publication of the application in the Official Gazette); or (ii) as a defence in the request for an administrative nullity process against the grant of a third party trademark registration (within 180 days from the date of grant), according to BIPL Articles 158 and 169, respectively.

Furthermore, as stated in Articles 3 and 4, the proof of alleged high reputation status depends on the assessment of three fundamental requirements:

- The recognition of the trademark by a wide proportion of the general public<sup>10</sup> (as demonstrated by opinion polls, market surveys or any other capable means, such as media plans, materials and articles in the general media);
- the quality, reputation and prestige that the public associates with the trademark and its goods or services (proved with trademark image surveys on a national scale); and
- the degree of distinctiveness and uniqueness of the sign.

In addition to evidence of the above, trademark owners should also consider the following elements in establishing the trademark's high reputation status<sup>11</sup>:

- (a) The duration of the effective use of the trademark in the Brazilian market and, where applicable, in the international market;
- (b) the profile and proportion of actual or potential consumers/users of the products or services associated with the trademark, and the proportion of actual or potential consumers/users of other market segments that immediately and spontaneously identify the products or services associated with the trademark;
- (c) the profile and proportion of actual or potential consumers/users of the products or services associated with the trademark, and the proportion of actual or potential consumers/users of other market segments that immediately and

<sup>10</sup> In this regard see the answer of the Brazilian Group on 19 April 2013 to the AIPPI Question Q234 'Relevant public for determining the degree of recognition of famous marks, well-known marks and marks with reputation' <<https://www.aippi.org/download/.../GR234brazil.pdf>> accessed 31 October 2014.

<sup>11</sup> Although the list provided in Article 4.4 of Resolution 107/2013 is quite long, it is not exhaustive. Therefore, other evidence may be presented by trademark owners in order to back up their arguments (e.g. the date the trademark was first used in Brazil and the length of effective promotion of the trademark in Brazil and other countries, mentioned in the first resolution – No. 110/2004). In comparison with former BPTO resolutions 110/2004, 121/2005 and 23/2013, the list provided in Article 4.4 of Resolution 107/2013 introduces slight changes and new elements that can be used to establish the trademark's high reputation status.

spontaneously recognize the trademark as a result of its tradition and rating in the market;

(d) the methods for commercializing the trademark in Brazil;

(e) the geographic extent of effective commercialization of the trademark in Brazil, and in other countries, where applicable;

(f) the recognition of a highly renowned trademark shall be requested by the trademark owner to means of promoting the trademark in Brazil and in other countries, where applicable;

(g) the amount of investment in advertising of the trademark in the Brazilian media in the last five years;

(h) the amount of product sales or service profits in the last five years;

(i) the economic value of the trademark as an asset of the company;

(j) the profile and number of people affected by the media through which the trademark owner advertises the trademark in Brazil;

(k) the information providing evidence that the distinctive character of the trademark's reputation has been diluted or parasitically exploited by third parties;

(l) the information providing identification of consumers/users with the trademark's values; and

(m) the information providing the degree of consumer/user trust towards the trademark.

The recognition of a highly renowned trademark shall be requested by the trademark owner to the BPTO through a specific petition with attached supporting documentation, as specified in Articles 3 and 4 of Resolution 107/2013, listed above. The requests are examined by a special commission using a specific application sheet and upon payment of a fee (which amounts to about US\$17,000)<sup>12</sup> during the term of registration. The special commission is composed of staff members from the BPTO's Trademark Department, who are selected by the president of the BPTO.

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<sup>12</sup> Ordinance No. 27 of 6 February 2014, of the Ministry of Development, Industry and Foreign Trade (*Diário Oficial da União* 7 February 2014, No. 27, Section 1, 66): electronic applications registered on the INPI's website will be charged at R\$37,500.00, and requests on paper at R\$41,300.00 (Brazilian Reals).

In cases where the special commission recognizes the trademark's high reputation status, this is registered and published in the BPTO magazine and database. In other words, the trademark is then officially considered to be a 'marca de alto renome'.<sup>13</sup> Any challenges to a trademark's high reputation status and its protection provided by BIPL Article 125 filed in petitions (such as oppositions or nullity procedures) do not oblige or require any comment from the BPTO. Therefore, since the implementation of Resolution 107/2013, the filing of special applications and procedures for the prior recognition of high reputation status is now mandatory.

According to BIPL Article 125 and Article 8 of Resolution 107/2013, the recognition of a trademark's high reputation status affords it special protection in all market segments (i.e. protection for non-similar goods and services) for a ten-year period. In practical terms, such recognition results in the potential denial of trademark applications and the nullity of previous trademark registrations involving similar trademarks. However, this special protection will cease or will no longer be guaranteed in cases of (i) extinction of the trademark's registration;<sup>14</sup> or (ii) revision or cancellation of the trademark's recognized high reputation status applied by any third party, according to Article 10 of Resolution 107/2013.

### III. A CONCISE CRITICAL ANALYSIS OF THE PROTECTION AND REGULATION OF HIGHLY RENOWNED TRADEMARKS IN BRAZIL

While Article 67 of the revoked Brazilian Intellectual Property Act of 1971 regulated the former 'marca notória', Article 125 of the Brazilian Intellectual Property Law of 1996 introduced the new legal concept of 'marcas de alto renome'. As already stated above, these represent two different types of special trademark protection. On the one hand, one could argue that BIPL Article 125 constitutes special trademark protection for dissimilar goods and

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<sup>13</sup> The BPTO's trademark online database with a list of all of the trademarks with highly renowned status that have been granted and that are still in force is available at: [http://www.inpi.gov.br/portal/artigo/busca\\_marcas](http://www.inpi.gov.br/portal/artigo/busca_marcas) accessed 31 October 2014. There are also separate lists for FIFA's highly renowned trademarks, which were granted based on Article 3 of Law No. 12,663 of 5 June 2012 ('World Cup Law'); however, the effects of these recognitions are valid only until 31 December 2014.

<sup>14</sup> According to BIPL Article 142, registration of the trademark shall be extinguished: (i) upon expiration of its term; (ii) upon the trademark owner's renunciation, either partially or in full, of the products or services associated with the trademark; (iii) upon forfeiture request by a third party; or (iv) upon non-compliance with the provisions of Article 217 (obligation to maintain a Brazilian attorney by persons domiciled abroad).

services as regulated in Article 67. On the other hand, the new protection regime is now much stronger and objective, as it is now largely based on clear legal requirements.

One of the major difficulties is the implementation of BIPL Article 125. No further legal conditions are required besides registration and the consideration of high reputation status. In other words, special protection can be guaranteed for all registered signs, in all fields of activity, **if they are considered to have a high reputation status in Brazil**. Therefore, BIPL Article 125 does not provide the legal requirements for a sign to be considered a highly reputed trademark, nor does it define the relevant Brazilian authority (BPTO, Judiciary, or otherwise) responsible for investigating the conditions necessary for the granting of special legal protection requested by the trademark owner.

It would be reasonable to suggest that BIPL Article 125 has opened up a 'Pandora's Box' for Brazilian trademark law and praxis. Given the lack of more specific legal requirements, the practical enforcement of BIPL Article 125 has been - since the very beginning - quite difficult, not only for trademark owners, but also for judges and BPTO trademark staff. In other words, BIPL Article 125 has brought with it a high level of legal uncertainty and chaos.

Despite the fact that it was clear from the outset that more precise regulation of BIPL Article 125 was necessary, the Brazilian Government took too long to respond. The very first BPTO Resolution (No. 110/2004) came into force almost eight years after the publication of BIPL in 1996. Consequently, Brazilian trademark law has recently witnessed judicial battles for the recognition and regulation of trademark reputations. In addition to the considerable number of lawsuits filed before the federal courts for the judicial recognition of the high reputation status<sup>15</sup> of trademarks, the Brazilian PTO has made many attempts to regulate the implementation of BIPL Article 125.

<sup>15</sup> Considering that BIPL Article 125 does not define the relevant authority in Brazil to recognize high reputation status of trademarks (BPTO, Judiciary, or other government entity), several trademark owners filed lawsuits in early 2000 requesting the special protection provided by BIPL Article 125. Many of these succeeded at that time, but now they are no longer in force (Marcelo MA Goyanes and Gustavo B Birenbaum, 'Marcas de alto renome e notoriamente conhecidas: cabimento de ação declaratória para a obtenção da proteção prevista na Lei No. 9.279/96' (2005) 75 Revista da ABPI 51; Gabriel F Leonardos and Rafael L Amaral, 'Marcas de alto renome, o artigo 16.3 do TRIPS e as ações declaratórias' (2005) 70 Revista da ABPI 57).

Although trademark owners held very high expectations regarding the BPTO's position and regulation in this regard, many class associations and intellectual property attorneys have heavily criticized its provisions. Previous BPTO Resolutions - Nos. 110/2004, 121/2005, and 23/2013 - were not well received by the entities representing intellectual property officers and agents. Many aspects, including the time taken to recognize and declare the trademark's reputation (until then limited to an argument of defence in opposition and nullity action procedures before the BPTO), the term provided for submitting all of the necessary proof and documentation and the five-year protection period were considered too short. The lack of clarity as to whether the reputation of the trademark can be granted ex officio by the BPTO was criticized. The approval and publication by the BIPL of four resolutions in less than ten years demonstrate how difficult it was (and probably still is) to solve the problem of interpretation and implementation of BIPL Article 125 in practice.

Indeed, it is difficult to comply with such a wide range of viewpoints as to what a highly reputed trademark is or should be, on the one hand, and to deal with differing interests and claims from trademark owners and their intellectual property agents<sup>16</sup> on the other hand, while striking a balance with public interest (e.g. government policies in the field of trademark law such as consumer and competition law). In Resolution No. 107/2013, as analysed above in Section II.B., the BPTO seems to have conceded defeat and recognized the previous resolution's imperfections, while taking into consideration the concerns of trademark owners and their agents. This introduced some substantial changes such as a separate initial procedure for the recognition of the trademark's high reputation status and the extension of the protection period from five to ten years.

#### IV. POSSIBLE INTERNATIONAL INPUTS: SUPPORT FROM COMPARATIVE PRIVATE LAW

For decades, the special protection of highly renowned trademarks against misappropriation and interference in their distinctive character has constituted one of the basic components of any modern trademark law system. Deeper analysis in terms of comparative private law may identify many national trademark systems and international rules that regulate this particular situation in a better and more effective manner than BIPL No. 9.279/1996.<sup>17</sup>

<sup>16</sup> Some of these claims and concerns are summarized in Resolution No. 60 of 21 October 2004, of the Brazilian Intellectual Property Association (ABPI)

<<http://www.abpi.org.br>> accessed 31 October 2014.

<sup>17</sup> See E Baiocchi (n 2) 441.

In this regard, both the Brazilian Government and Parliament should learn from the experience gained by other countries and consider improving the wording of BIPL Article 125, particularly to include more precise and clear legal requirements to guarantee the legal certainty in this field of trademark law. In order to achieve this goal, some good examples of international provisions exist: Articles 4.4.a and 5.2 of EU Trademark Directive 2008/95/EC, former 89/104/EEC; Article 9.6 of the Protocol on Harmonization of Intellectual Property Norms (South Africa), and Article 2.g of Paraguayan Trademark Law, Law No. 1.294/1998), as well as WIPO Joint Recommendations and Resolutions concerning the protection of well-known trademarks, particularly WKM/CE/I/3, WIPO-doc. A/34/13, and WIPO-doc. 833(E), Article 4.1,b, No. i, ii, and iii.

## V. FINAL REMARKS AND CONCLUSION

Despite the enormous commitment of the BPTO to restore trademark owners' and attorneys' faith in applying for the special protection provided by BIPL Article 125 through administrative resolutions, there is still a high degree of legal uncertainty surrounding the effective protection of highly renowned trademarks in Brazil. BPTO Resolution No. 107/2013 has been welcomed, but fails to provide a permanent solution.

As long as there are no clear and precise legal requirements anchored firmly in BIPL Article 125, this special kind of trademark protection will remain tied to restrictions within the current political and economic climate. Resolutions are changing on a constant basis (four have already been published) due to pressure from lobbying groups and other political interests, or due to the inadequacy and inconsistencies associated with the substantial number of legal conditions and proof required for recognition of high reputation status.

Therefore, instead of regulating the interpretation and implementation of BIPL Article 125 through administrative resolutions, legislative changes are necessary.<sup>18</sup> As demonstrated above, the current wording of BIPL Article 125 encompasses a general clause and foresees absolute protection, which leads not only to legal uncertainty, but also to competition issues (market restraint), especially when considering the practical consequences of this legal

provision (trademark protection for all fields of activity, i.e. for non-similar goods and services). Considering the wide range of economic interests involved in this particular field of private law, changing the status quo will require both political will and a major undertaking.

This brief study shows that the protection of highly renowned trademarks in Brazil is quite different, not only from those adopted by other countries in Europe and South America, but also from Brazil's own trademark law tradition. The option of BIPL Article 125 to acquire objective and absolute protection (regardless of the possibility of confusion as to the origin of goods and services or damage to the trademark's reputation) was perhaps an audacious path for the Trademark Law of 1996 to take. However, instead of providing benefits, it has led to many concerns.

Finally, it is important to highlight that beyond any discussion of changes to the current wording of BIPL Article 125, it is also necessary to clarify that this legal provision must always be interpreted and applied on a strict basis. A highly renowned trademark should only be protected in cases where both signs are identical, or at least very similar to each other, thus considering the possibility of confusion as to the origin of goods and services or even damage to a trademark's high reputation.

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<sup>18</sup> Bill of Law No. 4.890/2009, which encompasses some legal requirements that are already regulated in BPTO Resolution No. 107/2013, is still undergoing analysis by the Brazilian Congress.

'Der Schutz Bekannter Marken unter besonderer Berücksichtigung der zivilrechtlichen Sanktionen – eine Rechtsvergleichung zwischen dem deutsch-europäischen und dem brasilianisch-südamerikanischen Markenrecht' (Carl Heymanns 2012)

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