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# Branded: Capitalising on Brazil's rapid consumer growth

**For over 200 years, Brazil has been setting itself up to be a model of brand protection and for companies seeking to invest in the country that is good news, writes Jeroen Lallemand of Thomson Reuters**

A founding member of one of the first IP treaties in the world, the Paris Convention, Brazil also established a union for the protection of industrial property in 1883. It became the world's fifth-largest economy, in terms of GDP, in 2010 and is expected to grow an average of 4.2% by 2015, making the country a serious global player.

However, all growth is not without risk. Recent influxes in foreign investment have created serious inflation concerns in Brazil and, by some accounts, the Brazilian real is the world's most overvalued currency.

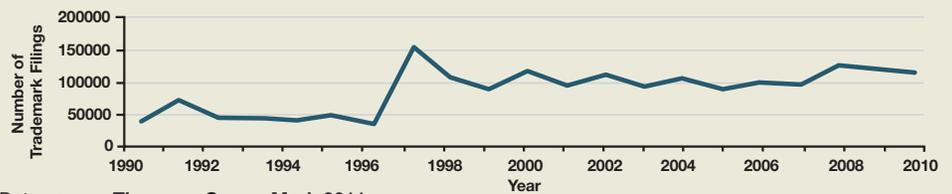
So what does all of this mean for multinational firms who are weighing emerging market opportunities? Who is moving most aggressively into the market? How are brand owners protecting their investments in the country?

Companies are investing heavily in the growth of Brazil's middle-class consumers. Record numbers of firms are taking strides to secure brand protection in the country. Over the last two decades, Brazil experienced a total increase in trademark filings of almost 200%, hitting a total of 114,090 applications filed in 2010 (Figure 1).

Alejandro Pinedo is Managing Director at Interbrand, the world's largest brand consultancy, where he oversees the firm's Brazilian office. He describes the trend of trademark growth in Brazil as a kind of great awakening: "Brazil discovered the world in the last decade. Before that, companies in Brazil thought only about their local markets. Now, they are realising there is a world out there and they are getting very sophisticated about being better prepared to compete in the international market. The result has been a 17% increase in value among Brazilian brands from last year to this year."

Consistent with Mr Pinedo's comments, the vast majority of Brazilian trademarks are being filed by Brazilian firms who are capitalising on the country's great brand awakening, but a large number of filings are also coming from the US and Europe. In 2010,

Figure 1. Growth of overall trademark filings in Brazil between 1990-2010



Data source: Thomson CompuMark 2011

93,850 trademark applications were filed in Brazil by Brazilian firms, while 5,891 were filed by US firms and 1,917 were filed by German entities.

Brazil's deeply entrenched IP law makes it a highly attractive market for global brands seeking trademark protection. As Cristina A. Carvalho, a partner specialising in intellectual property and international business with the Washington, D.C.-based law firm Arent Fox explains: "Brazil is not one of those countries where a big corporation will go in and find itself without protection; it is a very favourable environment for IP laws." However, the sheer scale of Brazil makes it a challenging marketplace for foreign brand owners. To put this in perspective, Mr Pinedo explains: "Brazil is similar to the US in that it is geographically large and diverse. Just as different brands resonate differently on the US West Coast than the East, the way people buy products and use things is completely different in São Paulo than in other parts of the country."

The specific laws governing trademarks are also somewhat unique in Brazil, requiring a slight strategy shift for foreign firms that have traditionally focused their brand protection efforts in the US and Europe. Brazil follows a first-to-file trademark system, which means that brands that have been using a particular mark in other regions of the world will not necessarily have protection in Brazil unless they file there. However, marks that are not registered in Brazil, but are proven to be well-known have been recognised by Brazilian courts in infringement cases.

In many ways, Brazil is a nation that defies easy categorisation. It is simultaneously a hyper-growth emerging market, a well-established leader in IP enforcement and a hotbed of new innovation. Together, this spirit of new growth, combined with a solid legal

infrastructure is creating an exciting market for local and multinational corporations.

While there is never a simple, one-size-fits-all solution for protecting IP in any nation, the path to success in Brazil is well worn with proven approaches. Based on our analysis of the industry's current thinking on the matter, the following are four key steps to a successful IP strategy in Brazil:

- File as early as possible. Brazil's first-to-file system combined with slow review cycles makes it essential for businesses looking to secure IP in Brazil to file well in advance of a Brazilian brand introduction.
- Conduct thorough searches. Given the time it takes to get approval for Brazilian trademarks, it is crucial for companies to conduct detailed searches for prior art, existing marks, even Internet domain names that could impede a speedy approval process.
- Know the culture. Brazil is physically enormous and there is widespread cultural variation within the country. Mr Pinedo explains: "Brazil is many Brazils; in the south the way people use products and buy things is completely different than in São Paulo. Companies operating here need to understand the local culture and respect it."
- Leverage local experts. Brazil's IP laws, tax code and political environment are among the most complicated in the world. It is important for foreign firms moving into the market to leverage local expertise on how best to navigate the nuances of the country's legal and regulatory infrastructure.

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