In Brazil, the procedure for a patent application in Brazil is initiated by filing an application form with the National Institute of Industrial Property (Portuguese abbreviation: INPI), in which involving the submission of at least an application form, draft of descriptions, scope of claims, abstract, and proof of the application fee. Payment of the application fee must be submitted. Failure to fulfill these requirements will cause the requirements not to be fulfilled. INPI will issue a notification by an examiner in relation to the application fee to which the applicant must respond within 30 days. If the applicant fails to respond to the notification, failure to respond to the notification leads to the application being deemed invalid and withdrawn.

According to the Brazilian IP Code, a filed patent application may be published in the publication of unexamined patent applications after 18 months from the date of application. However, with a consideration of the high volume of the backlog of patent applications, a published application is typically publicized after it typically takes approximately two to three years from the date of application. During the period from the date of the publication of unexamined patent applications until the end of examination, any third party and the applicant (for the purpose of assisting the examination) are allowed to submit their opinions for assisting the examination.

An applicant must file a request for examination of the application within 36 months from the date of application. Failure to file a request for examination within 36 months will be deemed withdrawal. However, an applicant is allowed to recover the withdrawn application by paying a predetermined fee within 60 days of the withdrawal date. Even so, if the application still fails to comply with the time limit, the application will be confirmed withdrawn.

According to the IP Code in Brazil, an applicant may be given an opportunity to submit amendments to the draft of descriptions and scope of claims by the time when the application is filed. In order to clarify or define the contents of the filed application, this enables clarification or refining of the contents of the filed application. However, nevertheless, any amendment should be restricted to the amendment of the contents first disclosed at the time of filing an application. After an examination request for examination has been filed, any amendment is either by an applicant’s spontaneous decision or by an examiner’s notification by an examiner, it is not acceptable if the amendment could change or...
expand the claimed scope of protection. In this sense, the only amendments limiting the claimed subject matter may possibly be accepted.

During the examination period, two types of official notifications will be issued, i.e., notification by an examiner and non-final notification of reasons for refusal will be issued. The applicant is required to respond to these notifications within 90 days from the date of publication of unexamined patent applications.

To put it simply, in simple terms, an examiner’s notifications by an examiner are generally composed of formal requirements such as a violation of requirements of clarity or a violation of support requirements. In a case of a non-final notification of reasons for refusal, an application may be rejected. This typically occurs due to a violation of the requirements of patentability such as lack of novelty and inventive step. INPI announces its decision to grant or refuse a patent in the publication of unexamined patent applications, thereby ending the examination process of examination.