

## REGULATION OF TECHNOLOGICAL INNOVATION TAX INCENTIVES

As it was announced in the *Infomail No. 14/2007*, Law No. 11.487/2007, which emended "The Good Law", provided that R&D expenditures made with projects executed by "Scientific and Technological Institutions" (ICTs, *i.e.*: public R&D institutions defined by the Law No.10973/2004 Innovation Law) could be excluded from the net profit in order to calculate the Corporate Income Tax (IRPJ) and the Social Contribution on the Net Profit (CSLL). The exclusion may be from 50% to 250% according to the percentage of intellectual property rights ownership over the creation developed by the project left to the ICT. However, such benefit still depended upon approval by the Executive.

After 05 (five) months, on 20.Nov.2007, the Decree No 6.260 was edited aiming to regulate the use of such tax incentive.

Therefore, the regulation, besides consolidating the expenditure proportions *versus* ownership of intellectual property rights, provides in sum:

1. The exclusion shall only be done during the calculation period in which the resources were effectively spent and it is limited to the amount of the real profit (net profit after tax) and the calculation basis of CSLL before the exclusion, being forbidden the use of an eventual surplus from a posterior calculation period.
2. For the calculation of the real profit and of the CSLL basis, the expenditures that were registered as operating expenses shall be added, even if they were spent in a scientific and technology research project to be executed by an ICT. Such additions, however, shall be proportional to the amount of the exclusion if it is less than 100%;
3. Only projects whose approval by a permanent committee of joined ministries is made official by means of a decree publication, shall be contemplated. The beneficiated legal entity is then obliged to turn in information reports to the Science and Technology Ministry by July 31st of each year;
4. At last, it has also delimited the benefit's outreach by providing it may be cumulative neither with the exclusion and deduction regime provided for in articles 17 and 19 of Law No. 11.196/2005 (regarding technology research and technological innovation development already carried out in the companies), nor with the deduction of article 13, item II of paragraph 2, of Law No. 9.249/1995 (relative to donations to education and research institutes).

### ABREU, MERKL at AIPyPT in Argentina

Márcio Merkl, Attorney-at-Law and Industrial Property Agent at ABREU, MERKL, spoke at the panel about "Intellectual Property" during the VIII AIPyPT National Meeting "Science, Technology and Innovation: Knowledge as the Engine for Productive Development and Social Economic Regional Integration".



The event took place between 14-16.Nov.2007, in Tandil City, Buenos Aires County, Argentina.

Read More: <http://www.aipypt.org.ar>

### ABREU, MERKL actively participating in the ABAPISUL

On 19.Dec.2007, the Brazilian Association of Industrial Property Agents (ABAPI) held its end of year Confraternization Luncheon and Ceremony to announce the new Administration Body for 2008-2009.



Committed to the Association's objectives regarding the profession's development and ethics, ABREU, MERKL, represented by the Attorney-at-Law and Industrial Property Agent, Maria Inez A. de Abreu, was appointed as the South Regional (ABAPISUL) Administrative Body for the state of Parana.

### ABREU, MERKL IN IP EVENTS

#### VII Cycle of IP Lectures

On 19-21.Nov.2007, the VII Cycle of Lectures on Intellectual Property (IP) was held as part of a strategy whose object is to promote IP discussions in higher education institutes. The event, fostered by the Special Committee of Intellectual Property of the Brazilian Bar Association of Rio Grande do Sul (OAB/RS) and by La Salle University Center Unisalle, was attended by the Attorney-at-Law and Industrial Property Agent Maria Inez A. de Abreu.

#### Brazil-Germany Symposium

The Attorney-at-Law and Industrial Property Agent, Márcio Merkl, attended the Brazil Germany Symposium that took place on 18.Nov.2007, in Blumenau SC. The event was promoted by the German Brazilian Legal Studies Society SEJUBRA.

#### AMCHAM's event

On 08.Nov.2007, in Curitiba - PR, an important lecture took place on the relevance of Intellectual Property in the Brazilian competitiveness, which was promoted by the American Chamber of Commerce AMCHAM. The lecturers spoke about the Brazilian Intellectual Property evolution and the legal aspects for the choice and protection of intellectual assets. Alana Belz Martz, member of ABREU, MERKL trademarks staff, attended the event.

## TECHNOLOGICAL QUALIFICATION AND COMPETITIVENESS

Luís Cláudio Cunha Vieira  
Patent Technician

Much is said nowadays about the concepts of competitiveness and technological qualification in enterprises. Such notions also make up an intellectual property (IP) philosophy, though there still are companies that are unaware of this interconnection in all spheres of creation.

Firstly, reference will be made to the concepts of technological qualification in innovation, where the new adhesion and employment of qualified minds, acting together in a stimulating environment, created an entrepreneurial profile of success. Even though these concepts might seem new, they have been around since the second half of the XIX century, for instance, in the undertaking for the creation of electric light and the definition of electric energy standards.

In the 1850s, several extremely qualified inventors began their researches, but working alone they could not find the complete solution for electric light, such as what happened to Joseph Wilson Swan, who found the way to light bulbs with filament in vacuum, but which proved to be inefficient.

Nevertheless, Thomas Alva Edison, someone capable of recognizing the need of human contributions from various specialties, enabled the continuous formation of a team that was able to reach success in the detection of technological solutions, for example, in the obtaining of the best vacuum for the light bulb, and in filaments of longer life span (US223,898).

From a different angle, the company founded by Edison had the opportunity to take advantage of Nikola Tesla's notorious knowledge in order to make the distribution system a more robust one, even to obtain patents related to the alternated current system (AC) (*e.g.* US447,921); however, without having his technology duly recognized, Tesla switched to George Westinghouse's company, the main competitor in the standardization of electric energy.

Despite Edison's success, with the skepticism towards the continuous current technology (CC) as the only option for success, Edison's company bypassed a crucial element identified by Westinghouse's company as regards competitiveness and monitoring of new technological opportunities. The adoption of the AC technology by Westinghouse's company, working and improving with Tesla the electrical systems in AC, determined its new spearhead position in the market.

To believe it is still possible to be successful, independently from the IP's point of view, would be naivety. In spite of the growing substitution of the traditional incandescent lamps by the discharge ones, in the last five years, solely in the incandescent lamps field, approximately 2500 patent applications were filed involving different types of solutions, and not only as regards vacuum and filament. There is a number of possibilities of creations that are being generated, though not new, of improvements to a product that may incur in cross licensing, among other IP implications.

The proportions have changed, there is no longer only Edison and a few other competitors in the search for the first electric lamp, by plenty other enterprises and experts in a world of fast technological changes. If he was still alive, Menlo Park Wizard would now be closely monitoring the minor alterations in the technological market and he would be working scrupulously with his intellectual assets; this would be the contemporary magic: let the light shine over the creative companies!

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