

**NEW LAW CHANGES ACCOUNTING REPORTING FOR INTANGIBLE ASSETS**

Law No. 11,638 of 28.Dec.2007 (effective on 01.Jan.2008) changed many provisions of the Brazilian Corporate Law (Law No. 6.404/1976) and the law related to the securities market (Law No. 6,385/1976).

The aim of this new Law is focused on the adaptation of the Brazilian accounting rules to the international accounting standards (i.e.: International Financial Reporting Standards - IRFS published by the International Accounting Standards Board - IASB).

One of the main changes is related with the mandatory independent audit of financial statements for large entities, which were defined by the new Law as entities with total assets of BRL 240 million (about USD 140 million) or annual gross revenue exceeding BRL 300 million (about USD 176 million), regardless whether corporations ("SA") or limited liability companies ("LTDA"). Although some controversies arose when the law was published and some aspects are still unclear, the LTDAs are not obliged to publish their statements except in certain circumstances, in which, however, apparently, their statements must be prepared according to the international standards.

In regard to intellectual property, the most important change is the treatment of intangible assets, which now must be reported in a special account of "intangible assets" in the fixed assets group. "Intangible assets" were defined as those rights related to incorporeal assets whose purpose is the maintenance of the company or that are exercised for such purpose, including acquired goodwill. The appraisal should be made according to the costs incurred during its acquisition, deducting the amount of the balance of the correspondent amortization

**WIPO REPORT REVEALS UNPRECEDENTED NUMBER OF INTERNATIONAL PCT FILINGS IN 2007**

The Patent Cooperation Treaty (PCT), a treaty that offers inventors and the industry an advantageous route for obtaining patent protection internationally, opened its 30<sup>th</sup> year of operation celebrating a record number of filings and a current membership of 138 countries.

The 2008 edition of the Patent Report of the World Intellectual Property Organization (WIPO) shows an average annual increase rate of 4.7% adding up to a record of 156,100 applications.

Last year our [Infomail No. 15](#) pointed out the changes in the geography of innovation with a notable increase in rates in the northeast Asian countries during 2006. In 2007, South Korea, which experienced an 18.8% growth, with 7,061 applications, came in 4<sup>th</sup> place; and China, whose number of applications increased by 38.1% totaling 5,456 applications, came in 7<sup>th</sup> place; consolidating their top ten positions. The northeast Asian countries accounted for over a quarter (25.8%) of all international applications under the PCT.

The United States of America represented 33.5% of all international applications with more than 52,000 PCT applications and a 2.6% increase over 2006. Japanese applicants maintained their second place position with 17.8% of the total number of applications with an increase of 2.6%, and German inventors and industry got a third place with 11.6% of all applications in 2007, with an increase of 8.4%.

Brazil registered a double-digit growth in 2007, increasing by 15.3%. However, this meant only 384 international applications.

**ABREU, MERKLE and Social Responsibility**

"Everything you can imagine is real." (Pablo Picasso)

On the 2008 New Year celebration, we gave continuity to our usual substitution of traditional holiday cards by donations to non-profit social assistance institutions.

Thus, aiming "to turn real the imagination of a great future", during the month of December toys were donated to 142 children from the CEMEI ATENAS II daycare center and from the ABI HAI orphanage.



ABREU, MERKLE Staff with the children and the coordinators of the institutions and the voluntary Santa Claus.

**THE DEVELOPMENT OF INDUSTRIAL PROPERTY IN JAPAN: AN EXAMPLE FOR BRAZIL**

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The industrial property policies and institutions that govern the rights of trademarks, patents, industrial designs, technology transfer, among others, have played an important role in the transformation of Japan into a modern market economy.

Indeed believed Mr. Sakichi Toyoda, founder of Toyota, that inventing useful technologies and obtaining good patents would contribute for the civilization's progress. Besides, Japan's history is filled with innovative entrepreneurs: Mr. Konosuke Matsushita, founder of the Matsushita group (Panasonic); Mr. Masaru Ibuka, co-founder of Sony; Mr. Soichiro Honda, founder of Honda group, among others, figured in the list of inventors of innumerable patents. Mr. Namihei Odaira, founder of Hitachi, one of the biggest patent owners in the world, used to say that "inventions are engineers' vital force" and that it is much needed to guarantee property over the technology; thus from the very first steps of his company he already had a team of patent experts.

Nevertheless, there used to be a false impression that Japan deliberately allowed foreign technology copying because it did not have or did not respect the industrial property laws. Such impression is the least inaccurate.

Firstly, it should be taken into account that Japan has had industrial property legislation since the Meiji Period (1868-1912), time when Japan also ratified the Paris Convention, one of the most important international conventions up to the current days on the industrial property theme.

Moreover, it has to be pondered that industrial property rights have time and/or territorial limitations. For instance, as far as patents go, an invention that is not protected in each country individually will fall into public dominium in that country. Thus the "deliberate copies" did not necessarily originate from the disobedience to the laws, but rather from the efficient utilization of the industrial property system by the Japanese.

So it is that the Japanese have stood out year after year in the development and protection of new technologies. Such assertion can be proved by the high levels of patenting not only during the reconstruction of the Japanese economy (1945 a 1964), period when Japan had a major control over foreign technology transfer; but also later in time when the Japanese reached the year of 1980 with the outstanding level of 86,8% Japanese applications versus 5,4% from U.S.A applicants, out of a total of 191,020 applications filed with the Japan Patent Office (JPO). In the same year, the United States Patent and Trademark Office (USPTO) reckoned a total of 104.329 applications, out of which 12,4% were Japanese versus 59,4% from U.S.A applicants. Therefore, even with half of the U.S.A population in 1980, the Japanese filed 2,5 times more applications with the USPTO and JPO than the Americans.

As regards Brazil, the number of foreign applications versus national applications, as well as the number of Brazilian applications filed abroad, evidences the weak performance in the industrial property protection developed locally and the level of technological dependence to which the economy is still subjected. Japan's history teaches Brazil great lessons; we are now to take advantage of it effectively.

\*A summary of the paper published in the Diplomacia & Negócios magazine in celebration of the 100 years of Japanese Immigration in Brazil

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