

THE  
INTELLECTUAL  
PROPERTY  
REVIEW

SIXTH EDITION

Editor  
Dominick A Conde

# THE INTELLECTUAL PROPERTY REVIEW

The Intellectual Property Review

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This article was first published in The Intellectual Property Review, - Edition 6  
(published in June 2017 – editor Dominick A Conde)

For further information please email  
[Nick.Barette@thelawreviews.co.uk](mailto:Nick.Barette@thelawreviews.co.uk)

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Dominick A Conde

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Published in the United Kingdom  
by Law Business Research Ltd, London  
87 Lancaster Road, London, W11 1QQ, UK  
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ISBN 978-1-910813-60-7

Printed in Great Britain by  
Encompass Print Solutions, Derbyshire  
Tel: 0844 2480 112

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# ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following law firms for their learned assistance throughout the preparation of this book:

ALUKO & OYEBODE

ANAND AND ANAND

ANJARWALLA & KHANNA ADVOCATES

ATSUMI & SAKAI

BHERING ADVOGADOS

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HECHANOVA BUGAY VILCHEZ & ANDAYA-RACADIO

HOGAN LOVELLS (PARIS) LLP

KHALID A ALTAMIMI ADVOCATES AND LEGAL CONSULTANTS

*Acknowledgements*

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LAPIDOT, MELCHIOR, ABRAMOVICH & CO

LEE INTERNATIONAL IP & LAW GROUP

LIU, SHEN & ASSOCIATES

NORTON ROSE FULBRIGHT CANADA LLP

PORZIO RÍOS GARCÍA

POWELL GILBERT LLP

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# PREFACE

Over the past several decades, there has been a major push to provide uniform and harmonised intellectual property coverage worldwide. To date, however, there remain significant differences and gaps in intellectual property coverage globally. As commerce increasingly becomes focused on international trade rather than individual countries, companies and clients must respond by thinking globally while also understanding the differences that remain between jurisdictions.

While jurisdictional differences can be anticipated and addressed, these differences are further magnified by the geopolitical turmoil that persists worldwide. A prime example is United Kingdom's Brexit vote, which leaves Europe's quest for a unified patent system in doubt. Another example is the election of President Donald Trump in the United States. As of the writing of this preface, President Trump has not announced his specific views on intellectual property in the United States. However, President Trump has already changed global intellectual property with his withdrawal of support for the Trans-Pacific Partnership. While this partnership would have strengthened intellectual property rights with many of the United States' trading partners in the Pacific Rim, those partners for now maintain the prior inconsistent rights with the United States and are free to forge agreements without the United States, including negotiating new relationships with China, a country that continues to strengthen and improve its intellectual property system.

To aid practitioners who are navigating this ever-changing landscape of global intellectual property, we now present the sixth edition of *The Intellectual Property Review*. In this sixth edition, we present 31 chapters that provide an overview of forms of the intellectual property coverage available in each particular jurisdiction along with an update of its most recent developments. Each chapter is written and assembled by leading practitioners in that jurisdiction. While all involved have striven to make this review both accurate and comprehensive, we must note that it is necessarily a summary and overview, and we strongly recommend that the reader seek the advice of experienced advisers for any specific intellectual property matter. Contact information for each chapter's authors is provided at the end of this review.

Finally, as we take over from the past review editor, we would like to thank Robert Baechtold for his guidance over the past five editions.

**Dominick A Conde**

Fitzpatrick, Cella, Harper & Scinto

New York

March 2017

# PORTUGAL

*Francisco Brito e Abreu and Joana Mota*<sup>1</sup>

## I FORMS OF INTELLECTUAL PROPERTY PROTECTION

The main Portuguese legal framework for industrial property rights is found in the Industrial Property Code (CPI), as approved by Decree-Law No. 36/2003, of 5 March and amended by Law No. 16/2008 of 1 April 2008, which implemented Directive 2004/48/EC of the European Parliament and of the European Council of 29 April 2004 on the enforcement of intellectual property rights (the Enforcement Directive), and Decree-Law No. 143/2008 of 25 July 2008. The CPI includes the main legal provisions regarding invention patents, utility models, registered designs and trademarks. There are also provisions for registering supplementary protection certificates, semiconductor layouts, logotypes, designations of origin or geographic indications.

The CPI makes no reference to trade secrets. A trade secret could, therefore, be considered to encompass any kind of know-how, expertise or business and technical information provided it is valuable and secret.

Trade secrets are not covered by any particular rights under Portuguese law, nor are they subject to any kind of requirement.

Notwithstanding the above, using a competitor's business information without consent may result in unfair competition under the CPI.<sup>2</sup>

The CPI also incorporates Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998, on the legal protection of biotechnological inventions (the Biotech Directive).<sup>3</sup> In addition, the CPI also incorporates Council Regulation (EEC) No. 1768/92 of 18 June 1992, concerning the creation of a supplementary protection certificate for medicinal products, and Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996, concerning the creation of a supplementary protection certificate for plant protection products.

In addition to CPI regulations regarding patents, conventions, treaties and international agreements that have been duly ratified by Portugal, the Paris Convention, the European Convention (EPC), the Patent Cooperation Treaty, the Budapest Treaty and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement are also applicable in Portugal. Accordingly, both process and product inventions may currently enjoy patent protection in Portugal, which is valid for a 20-year term.

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1 Francisco Brito e Abreu is a partner and Joana Mota is a senior associate at Uría Menéndez – Proença de Carvalho.

2 Article 318, CPI.

3 With regard to other industrial property rights, the CPI already integrated Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998, on the legal protection of designs.

## II RECENT DEVELOPMENTS

Recent reforms have been passed in Portugal to simplify procedures and improve access to the industrial property system by foreign citizens and companies, as well as to eliminate formalities and to shorten the legal time frame applicable to certain actions. Such reforms, which have been carried out by the Portuguese government in recent years, are part of the programme to eliminate bureaucracy. As a consequence of this programme, from 2012 onwards the majority of applications for the registration of industrial property rights in Portugal have been filed online.

In addition to this, the enactment of Law No. 62/2011 of 12 December, established a compulsory arbitration regime for disputes emerging from industrial property rights concerning reference and generic drugs, including precautionary proceedings. This law is applicable regardless of whether the cause for action refers to process, product or utilisation patents, or complementary protection certificates. Pursuant to the enactment of this Law, patent litigation in the Portuguese administrative courts in this particular regard was diverted to arbitration. This was promoted as providing a significant reduction to the timeframes of proceedings and the decision on cases and, moreover, enabling the parties to obtain a higher level of technical quality in the decisions than those provided by the state courts. In the past years, there have been hundreds of arbitrations in Portugal between industrial property rights holders and marketing authorisation applicants, which have 'contributed to completely changing the panorama of the case law relating to the infringement of patents and SPCs (supplementary protection certificates)'.<sup>4</sup>

Finally, as of March 2012, a new specialist Intellectual Property Court, located in Lisbon, with national competence, has begun hearing appeals of the Portuguese Patent and Trademark Office (INPI) regarding its decisions and industrial property right enforcement actions (see Section IV.iv, *infra*). This represented a welcome change as the commercial courts had been inundated (particularly with insolvency proceedings) over the past few years.

## III OBTAINING PROTECTION

According to the CPI,<sup>5</sup> any inventions may be the subject matter of patent protection provided that they are new, inventive and have industrial application. This provision expressly includes biotechnological inventions among patentable inventions, defined by the CPI in accordance with the Biotech Directive, as 'a composed product consisting of biological material or a process by means of which biological material is produced, processed or used'.

It is further established that, if the above requirements are met, patent protection may be granted either for a process or a product, in any field of technology. Also, the CPI defines any new process for obtaining known products, substances and compounds as patentable.

Although the CPI usually protects inventions, simultaneously or sequentially, by means of patent or utility model rights or both, it excludes any inventions or biological material and chemical or pharmaceutical processes or substances from the scope of protection of utility models.<sup>6</sup>

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4 Arbitrating Intellectual Property Disputes in Portugal: A Case Study, Nuno Ferreira Lousa and Raquel Galvão Silva, Kluwer Arbitration Blog, 13 November 2015, <http://kluwarbitrationblog.com/2015/11/13/arbitrating-intellectual-property-disputes-in-portugal-a-case-study/>.

5 Article 51, CPI.

6 Article 119, CPI.

The CPI expressly excludes from patent protection, among other matters, simple discoveries, scientific theories and mathematical methods, natural materials and substances, and methods for treatment of human or animal body by surgery or therapy and diagnosis methods applied to the human or animal body. In this context, software is, as general rule, subject to protection by copyright and not patent, unless the software in question is part of a process subject to patent protection *per se* (the ‘computer implemented inventions’).

These limitations, however, do not apply to: products, substances or compounds used in surgery, therapy and diagnosis methods; or a substance or a compound used by any of the above methods that is part of the state of the art, provided, however, that its use in connection with those methods is not included in the state of the art.

The protection of a ‘new use’ invention therefore prevails as provided in the EPC, regardless of whether the CPI fails to provide any specific guidelines regarding a second use definition.

In line with the Biotech Directive, the CPI provides that illegal inventions and inventions the commercial exploitation of which is contrary to public policy, morality and public health are unpatentable. This includes processes to clone human beings, to modify the germ line genetic identity of human beings, the use of human embryos for industrial or commercial purposes, processes to modify the genetic identity of animals that are likely to cause them suffering without any substantial medical benefit to humans or animals, and any animals resulting from such processes.

The CPI further determines as non-patentable inventions, in accordance with the Biotech Directive, the human body, at the various stages of its formation and development, and also the simple discovery of one of its elements, including a sequence or partial sequence of a gene. This material cannot be the subject matter of patentable inventions, nor can plant varieties and animal species,<sup>7</sup> or primarily biological processes for the production of plants or animals.

The limitations regarding the human body will, however, not apply to new inventions entailing inventiveness and industrial applicability, regarding isolated elements from the human body or otherwise produced through a technical process, including the sequence or partial sequence of a gene, even if the structure of that element is identical to that of a natural element, provided that the industrial application of such sequence or partial sequence of a gene is expressly observed and specifically indicated in the patent application. Technical processes used for the identification, characterisation, isolation, purification and reproduction of the gene, seeking a technical application, are also patentable.

The above limitations will likewise not apply to inventions regarding plants or animals, provided that their technical feasibility is not confined to a plant variety or animal species; to inventions concerning a microbiological process or other technical processes, or a product obtained by means of such processes; or to biologic material isolated from its natural environment or produced by means of a technical process even if it previously occurred in nature.

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7 Plant variety protection can be obtained through the procedure set out in Decree 20/95 of 8 July according to which Portugal joined the International Union for the Protection of New Varieties of Plants, or under a ‘Community plant variety right’, in accordance with Council Regulation (EC) No. 2100/94 of 27 July 1994 on Community plant variety rights.

## **IV ENFORCEMENT OF RIGHTS**

### **i Possible venues for enforcement**

An action for patent infringement may be initiated based on civil or criminal law and, in certain cases, situations of patent infringement may also give rise to administrative proceedings leading to the application of a fine to the offender by an administrative authority. According to the CPI, in such administrative proceedings, the investigation phase is conducted by an administrative authority (Food and Economic Safety Authority). The final decision regarding the application of a fine and additional penalties provided for in the CPI shall be taken by the INPI.

In the case of civil actions, specialised courts (ruling at first instance) have exclusive jurisdiction over such claims. Any civil action (claim for damages) based on patent infringement shall be brought before the Intellectual Property Court as of March 2012. Notwithstanding, all civil actions brought before this date have continued their proceedings in the commercial courts, which, before the establishment of the Intellectual Property Court, had exclusive jurisdiction over such claims.

All criminal litigation will be brought before the criminal courts of first instance. The initiation of a criminal procedure (i.e., the commencement of an investigation phase) depends on a prior complaint submitted to the Public Prosecution Service. The local court with jurisdiction is the court of the area where the breach was or is being committed.

### **ii Requirements for jurisdiction and venue**

The infringement of a patent right may entail the initiation of three types of proceedings, outlined below.

#### ***Civil action (claim for damages)***

These are judicial proceedings of a civil nature through which any party who has suffered damages resulting from an unlawful act may claim against the infringer in order to obtain fair compensation for damages. In order for this action to be successful the following must apply: there must be an unlawful act (the infringement); the conduct of the infringer must either be wilful or negligent; there must be damages; and the conduct must have produced the damages.

Should these requirements be met, the patent holder will be entitled to claim for damages and loss of profits caused directly or indirectly by the conduct of the infringer. In order to calculate such indemnification the court should also take into account: (1) the actual damages and the loss of profit (including the royalties that the infringer would have paid to the patent owner for the legitimate use of the patent); (2) the profits obtained by the infringer; (3) the costs incurred by the right holder for the protection of its rights, comprising the investigations and the efforts to cease the infringing acts; and (4) non-pecuniary damages. The criteria for loss of profits are established in the Portuguese Civil Code, namely, the profits that the claimant would have obtained if the infringement had not taken place. If it is not possible to determine the amount of the compensation according to the above criteria, the court will determine a fair amount that must cover at least the remuneration that the patent



holder would have obtained if the infringing party had requested a licence and the costs incurred by the patent holder for the protection of its rights, comprising the investigations and the efforts to cease the infringing acts.<sup>8</sup>

### ***Criminal proceedings***

According to the CPI, certain patent infringements are considered criminal offences:

- a* violation of an exclusive right granted by a patent. Those who, without the consent of the patent owner: produce goods that are the subject matter of the patent; use or apply means or processes protected by the patent; or import or distribute goods that have been obtained using products or processes protected by the patent right, may be punished with a prison sentence of three years or a fine of up to €180,000;
- b* selling, moving and concealing products protected by a patent, with knowledge of this fact, may be punished with a prison sentence of one year or a fine of up to €60,000;
- c* holding a patent right in bad faith, without being lawfully entitled to it, may be punished with a prison sentence of one year or a fine of up to €60,000. In these cases, the court will also issue a decision annulling the patent registration, or, upon the request of the interested party, assign the registration in favour of the inventor; and
- d* performance of a legally non-existent act or an act with concealment of the truth, will be punished with a prison sentence of three years or a fine of up to €180,000.

Criminal proceedings will be initiated by the Attorney General's Office only if a complaint is submitted by the patentee or licensee within six months from the infringement. If the Attorney General's Office finds sufficient evidence to substantiate the complaint, formal prosecution may follow and proceedings will commence. As a general rule, the wilful misconduct of the defendant must be proven for the defendant to be found guilty in criminal proceedings, unless negligence is expressly considered to be prohibited. With regard to patents, and on the basis of the criminal offences, the infringing act must be carried out intentionally.

### ***Administrative infraction proceedings***

These proceedings deal with infractions which, from a Portuguese law perspective, are less serious than criminal offences, and therefore only punished with fines.

### **iii Obtaining relevant evidence of infringement and discovery**

The CPI contains specific provisions regarding the possibility of the claimant to obtain evidence of infringement.<sup>9</sup> In judicial proceedings it is possible to request that the infringer presents the evidence in its possession, as long as the claimant is able to demonstrate sufficient indication of a violation of its industrial property rights. Moreover, it is also possible to ask the court for protective measures in order to preserve evidence of the alleged violation. These evidence preservation measures may include a 'detailed description, with or without samples, or the effective seizure of the goods suspected of violating industrial property rights, as well as, whenever considered appropriate, of the materials and instruments used in producing and distributing said goods, as well as documentation pertaining to them'.<sup>10</sup>

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8 Article 338°-L, CPI.

9 Article 338°-C, CPI.

10 Article 338°-D, CPI.

**iv Trial decision-maker**

Portugal's bailout in 2011 and recourse to European Union mechanisms to avoid defaulting on its debts resulted in the execution of a memorandum of understanding (MoU) with the 'troika' of the European Commission, the International Monetary Fund and the European Central Bank. One of the undertakings assumed by Portugal in the MoU related to the improvement of the Portuguese judicial system, which is essential for the proper and fair functioning of the economy. In this regard, the MoU required that, among other changes, a specialised court on intellectual property rights should be made fully operational.

As a result of this, Decree-Law No. 67/2012 of 20 March 2012, introduced an Intellectual Property Court to deal with matters related to intellectual property, which came into operation on 30 March 2012. It is a single-panel court with specialised competence and a national scope, currently with two judges who have been transferred from the commercial courts, which were until that time the competent courts to decide on intellectual property matters. The judges can nominate experts to assist them on complex technical matters.

**v Structure of the trial**

Both civil and criminal proceedings include different stages. Generally, proceedings are initiated by the parties submitting pleadings, followed by a stage in which evidence is provided. Subsequently, the trial takes place and the court issues its decision. Finally, the parties can appeal said judgment, provided that certain conditions are met. As a general rule, witnesses should be proposed at the time of the submission of the complaint.

Contrary to the general principle applicable in Portuguese civil law, where the burden of proof generally lies with the party claiming a certain right, in certain patent process infringement scenarios the burden of proof lies with the defendant. In this regard, the CPI establishes: 'If the subject matter of the patent is a process for the manufacture of a new product, this product manufactured by a third party shall be presumed to have been manufactured through the patented process, unless the third party provides proof that the process used is different.'<sup>11</sup> This, however, will only apply in civil actions, as in criminal actions or administrative infraction proceedings, the general principle of law *in dubio pro reo* (presumption of innocence) will apply and the proof will be freely assessed by the court.

**vi Infringement**

The CPI does not contain any reference to the doctrine of equivalents. Nevertheless, it sets out that the scope of protection conferred by the patent has to be determined by the content of the claims, and that the description and drawings will serve for its interpretation.<sup>12</sup>

The doctrine of equivalents was apparently firstly referred to by a Portuguese court in a decision issued more than four decades ago by the Lisbon Court of Appeal under the former Portuguese Industrial Property Code of 1940 (decision of 26 June 1974). The court then decided that despite the substitution of some of the means described in the appropriate patent, patent infringement can be determined where the following three conditions (the 'triple identity' test) are met: (1) the substitutive means derive from the same inventive idea

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11 Article 98, CPI.

12 Article 97, CPI.

that is the subject matter of the patent; (2) such means have the same function as the means described in the patent; and (3) such means are aimed at the same results as the means described in the patent.

In any event, it is generally accepted that the doctrine of equivalents is applicable in Portugal.<sup>13</sup>

## vii Defences

The validity of the title invoked by the patent holder may be challenged on the basis of several facts. The title will be considered null at any time if the subject matter of the industrial property right cannot be protected; some formalities considered necessary for the correct allocation of rights have been ignored; or public rules have been breached.<sup>14</sup>

In relation to patents specifically, the CPI establishes further causes of nullity:

- a* when the patent does not comply with the novelty, inventiveness and industrial application requirements;
- b* when the subject matter of the patent concerned cannot be protected;
- c* when it is acknowledged that the title given to the patent comprises a different subject matter; and
- d* when the subject matter has not been described in such a way that it allows its execution by a specialist in that field.<sup>15</sup>

Further to this, the declaration of nullity or annulment may apply to one or more claims, but it will not be possible to declare the partial nullity or annulment of a claim. In court proceedings, the patent holder may limit the scope of protection by requesting the amendment of the claim. Furthermore, if one or more claims are declared void or annulled, the patent will remain in force, provided that the remaining claims constitute an autonomous patent<sup>16</sup>. The nullity may be invoked at any time and by any party that proves to have an interest in ensuring that the invalidity is recognised, including by the public prosecutor.

Furthermore, the CPI also sets out that a title can be declared annulled in the following cases:

- a* the patent rights do not belong to the title holder; or
- b* the patent rights have been granted in breach of either of the following rules:
  - the patent must be granted to its inventor or inventors; or
  - if the invention was created within the scope of an employment contract, the patent holder will be the employer. The employer will be awarded compensation in accordance with the importance of the invention, if the invention is not comprised within the employment contract.<sup>17</sup>

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13 Recent case law expressly recognises that the doctrine of equivalents should apply to all patents with effect in Portugal, regardless of the protection adopted (whether national, European or international), for reasons of equal competition and legal certainty (e.g., Lisbon Court of Appeal, decision of 17 September 2009 (proceedings 893/1995.L1-2) and South Administrative Central Court, decision of 18 March 2010 (proceedings 5893/10), both available at [www.dgsi.pt](http://www.dgsi.pt)).

14 Article 33, CPI.

15 Article 113, CPI.

16 Article 114, CPI.

17 Article 34, CPI.

In the cases described in (b), above, instead of the title being annulled, the interested party can request the reversion of title in its favour.

The alleged infringer may also argue that the rights granted by the patent holder have been exhausted. However, arguments on this specific topic are not frequent in patent litigation in Portugal.

#### **viii Time to first-level decision**

There are no legal deadlines for first instance courts to deliver a decision. Despite this, the general practice is that it may take from one to three years in main actions and one to two years in preliminary proceedings.

With regard to a decision in arbitration proceedings, the law sets forth a 12-month period for a decision to be rendered. This period may be extended if the parties so agree.

#### **ix Remedies**

Before the implementation of the Enforcement Directive in Portugal, there were no specific preliminary injunction proceedings for industrial property rights (other than an injunction for the apprehension of infringing goods) and general preliminary injunction procedure rules were applicable. Upon the transposition of the Enforcement Directive by Law No. 16/2008, published on 1 April 2008, which amended the Copyrights and Related Rights Code and the Industrial Property Code, the following procedures are now set forth in the Portuguese Industrial Property Code:

- a* a specific preliminary injunction, which has the aim of preventing an imminent infringement or to suspend the infringement in course, and can be directed at an intermediary of the infringer. The court may order the alleged infringer to pay a penalty for the possible delay in complying with the injunction; and
- b* measures to collect and protect evidence and duty to provide information, under which an interested party can request the infringing party to be ordered to provide detailed information on the origin and the distribution chain of the services and goods potentially infringing the interested party's industrial property rights.

Portuguese law does not specify how imminent the acts of infringement must be for the court to hand down a decision ordering a preliminary injunction. The petitioner must provide preliminary proof that there is violation of, or justified fear that another party may cause serious harm that is difficult to repair to an industrial property right.

Although the preliminary injunction depends on the action on the merits, it can, however, be filed during or before those proceedings. Therefore a preliminary injunction can be filed and decided before the filing of the action on the merits. In this case, the petitioner has a 30-day period following notification from the court of the final decision to file the action on the merits. As preparatory actions may be also prosecuted under the CPI, and may be sufficient evidence to file injunction proceedings, the petitioner can either wait until the product is launched or act once it has sufficient evidence of the preparatory actions. Nevertheless, the preliminary injunction should be filed as soon as the petitioner has obtained the necessary evidence of the preparatory actions or, as the case may be, of the infringing behaviour. If an injunction is requested in order to prevent the occurrence of an infringing action (i.e., before the infringement is committed) and the court adopts the necessary measures to stop the preparatory actions of the potential infringer and the infringer complies with the court decision, then the action on the merits will be based upon

a formal request for the court to definitively confirm the prohibition of the preparatory actions. Should this situation occur, and unless the petitioner has suffered no damages as a consequence of these preparatory acts, there will be no infringement claim.

#### **x Appellate review**

Any party is entitled to file an appeal from a first instance court decision based on both facts and points of law.

From the Intellectual Property Court, it is possible to file an appeal with the Lisbon Court of Appeal. However, following this decision it would not be possible to file an appeal with the Supreme Court of Justice.

Further, an appeal against a judicial decision, if permitted by law (that is, if the damages claimed exceed €5,000), will be assessed by the Court of Appeal. After a decision has been issued by the Court of Appeal, and if the damages claimed exceed €30,000, a second appeal may be submitted to the Supreme Court of Justice.

From decisions rendered by an arbitral tribunal, it is possible to file an appeal with the Court of Appeal; however, this pending appeal does not stay the arbitral proceedings, meaning it does not suspend the effects of the decision of the arbitral tribunal.

The courts of appeal are composed of a panel of three judges, as opposed to a first instance court where decisions are taken by one single judge, and they generally take approximately six months to issue a decision.

#### **xi Alternatives to litigation**

The main alternative to litigation is arbitration. Under the Law on Arbitration, an institutionalised arbitration centre with specialised and national scope was created in 2009 and constituted as a non-profit private association, supported by the Arbitration Centre for Industrial Property, Domain Names, Trade Names and Corporate Names.<sup>18</sup>

This centre is competent to settle disputes in the areas of industrial property, .PT domain names, trade names and corporate names, by providing services such as information, mediation, conciliation or arbitration subject to its regulation, and that by special law are not subject to the exclusive jurisdiction of a judicial court or to compulsory arbitration. It is also competent to provide technical advice, mediation and arbitration services or the management of those services to other institutionalised arbitration centres.

## **V TRENDS AND OUTLOOK**

Portugal ratified the Unified Patent Court Agreement in August 2015,<sup>19</sup> becoming the eighth EU Member State to have done so, but it is not yet clear how this will affect the arbitration practice for industrial property disputes currently in place. Nevertheless, the Agreement establishes the creation of a patent mediation and arbitration centre with seats in Ljubljana and Lisbon.<sup>20</sup> This means that the use of arbitration in Portugal to settle some disputes related to industrial property rights – at least related to European patents and European patents with unitary effect – will remain a reality for the forthcoming years.

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18 [www.arbitrare.pt](http://www.arbitrare.pt).

19 Resolution of the Assembly of the Republic No. 108/2015 of 6 August 2015.

20 Article 35 of the Unified Patent Court Agreement.

In addition to this, the approval of the EU trademark reform package<sup>21</sup> in the first half of 2016 will require that Member States adapt their existing trademark systems to a more reliable, predictable, cost-effective and faster legal framework. The maximum period for Member States to implement Directive (EU) 2015/2436 is three years starting on 14 January 2016. Regulation (EU) 2015/2424 is already in force, from 23 March 2016, although some changes will only become effective from 1 October 2017.

Furthermore, the adoption of the long-awaited Trade Secrets Directive 2016/943/EC (which creates, *inter alia*, a common definition of 'trade secret' and sets out remedies for holders of trade secrets in the event they are misused), which must be implemented by the Member States into national law by the end of 2018, will certainly contribute to a greater awareness of the importance of intellectual property rights, thus making enforcement of these rights even more effective. This will most likely require an increasing degree of complexity in the judicial decisions handed down by the Intellectual Property Court.

Moreover, in the context of the Digital Single Market Strategy for Europe,<sup>22</sup> the discussion around the proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market (COM(2016)593), which aims at harmonising copyright law across the EU and adapting the applicable framework to the digital age, is also an important topic to be followed in the coming period.

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21 Regulation, (EU) 2015/2424 and Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015.

22 COM(2015) 192 final, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52015DC0192>.

## ABOUT THE AUTHORS

### **FRANCISCO BRITO E ABREU**

*Uría Menéndez – Proença de Carvalho*

Francisco Brito e Abreu joined Uría Menéndez in 2001 after working as in-house counsel in the Portuguese subsidiary of a multinational corporation, a privately owned holding company and a listed Portuguese company, and as a lawyer in another prestigious Portuguese law firm. He was made partner of Uría Menéndez in January 2005.

He focuses his practice on commercial and corporate law issues and has extensive experience in corporate restructuring, M&A and private equity transactions. Francisco also has vast experience in the pharmaceutical sector, focusing on regulatory, distribution and advertising matters.

He is recognised by major publications (*Chambers Global*, *IFLR 1000*, *PLC Which Lawyer?*, etc.) for his work in M&A and private equity.

### **JOANA MOTA**

*Uría Menéndez – Proença de Carvalho*

Joana Mota joined Uría Menéndez as a junior associate in February 2012 and became a senior associate in February 2014. Between 2006 and 2012, Joana worked as a lawyer in other prestigious law firms.

Joana focuses her practice on the acquisition, protection and maintenance of national and international IP rights and has represented parties in related litigation proceedings. She has also advises companies on personal data protection issues.

Joana has a postgraduate qualification in IP law, taught by the Portuguese Association of Intellectual Property Law in conjunction with the Faculty of Law of the University of Lisbon. She also has an advanced qualification in data protection law from the University of Lisbon.

**URÍA MENÉNDEZ – PROENÇA DE CARVALHO**

Rua Duque de Palmela, 23

1250-097 Lisbon

Portugal

Tel: +351 21 030 86 00

Fax: +351 21 030 86 01

francisco.abreu@uria.com

joana.mota@uria.com

www.uria.com